THE LAW AND PRACTICE OF INCOME TAX

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The references are to the sections unless otherwise indicated.

References to old sections of the 1961 Act, which are now deleted, are in square brackets.

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TABLE SHOWING THE PROVISIONS OF THE INCOME-TAX ACT, 1961, AND THE CORRESPONDING PROVISIONS OF THE INDIAN INCOME-TAX ACT, 1922

The references are to the sections unless otherwise indicated.

References to old sections of the 1961 Act, which are now deleted, are in square brackets.

1961 Act	1922 Act	1961 Act	1922 Act
1	1	2(24)	2(6C)
2(1)	2(1)	2(25)	2(7)
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7(1), Expln. 2, prov., & 58G(2)
7(1), Expln. 2, prov.
—
4(3)(vi)
4(3)(xvii)
—
4(3)(xvii-a)
—
4(3)(xviii)
4(3)(xvii-b)
—
4(3)(xix)
—
—
4(3)(xxii)
—

1961 Act	1922 Act	1961 Act
[10(19)]	4(3)(x)(a)	17(2)
10(19A)	—	17(3)
10(20)	4(3)(iii)	18
10(20A)	—	19
10(21)	4(3)(xiii)	20
10(22)	—	21
10(22A)	—	22
10(23)	4(3)(ii-a)	23
10(23A)	—	24(1)
10(23B)	—	24(2)
10(23C)	—	25
10(24)	4(3)(xi-a)	26
10(25)(i)	4(3)(iv)	27(i)
10(25)(ii)	4(3)(ix)	27(ii)
10(25)(iii)	58R	27(iii)
10(25)(iv)	—	27(iv)
10(26)	4(3)(xxi)	27(v)
10(26A)	—	27(vi)
[10(27)]	—	28(i)
10(28)	—	28(ii)
10(29)	14(5)	28(iii)
10(30)	—	28(iv)
11	4(3)(i)	28, Expln. 1
12	4(3)(ii)	28, Expln. 2
12A	—	29
13(1)(a)	4(3), last para	30(a)(i)
13, remaining portion	—	30(a)(ii)
14	6	30(b)
15	7(1)	30(c)
16	7(2)	31(i)
17(1)(i) to (v)	7(1)	31(ii)
17(1)(vi)	58E	32(1)(i) & (ii)
17(1)(vii)	58J(3)	32(1)(iii)

1961 Act	1922 Act
32(1)(iv)	10(2)(vi), 3rd para
32(1)(v)	——
32(1)(vi)	——
32(1A)	——
32(2)	10(2)(vi), prov. (b)
32A	——
33(1)	10(2)(vi-b) & 2nd prov.
33(1A)	——
33(2)	10(2)(vi-b), Expln. 1
33(2), Expln.	10(2)(vi-b), Expln. 2
33(3)	10(2)(vi-c)(i) & 35(11), Expln.
33(4)	10(2)(vi-c)(ii)
33(5) & (6)	——
33A	——
33B	——
34(1)	10(2)(vi), prov. (a), & 10(2)(vi-b), 1st prov., cl. (a)
34(2)(i)	10(2)(vi), prov. (c)
34(2)(i), Expln.	12B(1), 2nd prov.
34(2)(ii)	10(4B)
34(2)(iii)	——
34(3)	10(2)(vi-b), 1st prov., cl. (b)
35(1)(i)	10(2)(xii)
35(1)(ii) & (iii)	10(2)(xiii)
35(1)(iv)	10(2)(xiv)
35(2)(i)	10(2)(xiv) & 1st prov.
35(2)(i-a)	——
35(2)(ii)	10(2)(xiv), 2nd prov., cl (a)
35(2)(iii)	10(2)(xiv), 2nd prov., cl. (b)
35(2)(iv)	10(2)(xiv), 2nd prov., cl. (d)
35(2)(v)	10(2)(xiv), 2nd prov., cl. (e)
35(2A)	——
35(3)	10(2)(xiv), 2nd prov., cl. (g)
35(4)	10(2)(xiv), 2nd prov., cl. (f)
35(5)	——
35A	——
35B	——
35C	——
35D	——
35E	——
36(1)(i)	10(2)(iv)
36(1)(ii)	10(2)(v)
36(1)(iii)	10(2)(iii)
36(1)(iii), Expln.	10(2)(iii), Expln.
36(1)(iv)	58R
36(1)(v)	——
36(1)(vi)	10(2)(viii)
36(1)(vii)	10(2)(xi)
36(1)(viii)	10(2)(xiv-a)
36(1)(ix)	——
36(2)	10(2)(xi)
37(1)	10(2)(xv)
37(2)	10(2)(xv), prov.
37(2A) & [(2B)]	——
37(3) & (4)	——
38(1)(a)	10(2)(i) & (ii)

1961 Act	1922 Act	1961 Act	1922 Act
38(1)(b)	10(2)(ix)	43(1), Expln. 6	12B(1), 2nd prov.
38(2)	10(3)	43(1), Expln. 7	——
39	12A	43(2)	10(5)
40(a)(i)	10(2)(iii), prov.	43(3)	10(5)
40(a)(ii)	10(4)	43(4)	Expln. to 10(2) (xii), (xiii) & (xiv)
40(a)(ii-a)	——	43(5)	24(1), Expln. 2
40(a)(iii)	10(4)(a)	43(6)(a)	10(5)(a)
40(a)(iv)	10(4)(c)	43(6)(b)	10(5)(b)
[40(a)(v)]	——	43(6), Expln. 1	2nd prov. after 10(5)(b)
40(b)	10(2)(iii), prov., & 10(4)(b)	43(6), Expln. 2	12B(1), 2nd prov.
40(c)(i) & (ii)	10(4A)	43(6), Expln. 2A	——
[40(c)(iii)]	——	43(6), Expln. 3	10(5), Expln.
40(d)	8, Expln.	43A	——
40A	——	44	10(7) & r. 9 of Sch.
41(1)	10(2A)	44A	——
41(2)	10(2)(vii), 2nd & 4th provs.	44AA	——
41(2), prov.	10(2)(vii), 5th prov.	44B	——
41(2), Expln.	——	44C	——
41(2A)	——	44D	——
41(3)	10(2)(xiv), 2nd prov., cl. (c)	45(1)	12B(1)
41(4)	10(2)(xi), prov.	[45(2) to (4)]	——
41(5)	——	46	——
42	10(2AA)	47(i)	12B(1), 1st prov.
43(1)	10(5), Expln.	47(ii)	——
43(1), Expln. 1	10(2)(xiv), 2nd prov., cl. (e)	47(iii)	12B(1), 1st prov.
		47(iv)	12B(1), 2nd prov.
43(1), Expln. 2	10(5)(c)	47(v) to (ix)	——
43(1), Expln. 3	10(5)(a), 1st prov.	48	12B(2)
43(1), Expln. 4	10(5)(a), 2nd prov.	49(1)	12B(1), 2nd prov., & 12B (3)
43(1), Expln. 5	1st prov. after 10(5)(b)	49(2)	——

1961 Act	1922 Act	1961 Act	1922 Act
50	12B(2), 2nd & 3rd provs.	62	16(1)(c), 3rd prov
51	12B(2), 4th prov.	63(a)	16(1)(c), 1st prov
52(1)	12B(2), 1st prov.	63(b)	16(1)(c), 2nd prov
52(2)	——	64(1)	16(3)
53	12B(4)(a)	64(2)	——
54	12B(4)(b)	65	——
[54A]	——	66	16(1)(a)
54B	——	67(1)	14(2)(aa) & 16(1)(b)
[54C]	——	67(2)	——
54D	——	67(3)	——
55(1)(a)	12B(2), 2nd & 3rd provs.	67(4)	16(1)(b), prov., & 24(1), 2nd prov.
55(1)(b)	12B(2)(ii)	68	——
55(2)(i)	12B(2), 3rd prov.	69	——
55(2)(ii)	12B(3)	69A	——
55(2)(iii) to (v)	——	69B	——
55(3)	12B(3)	69C	——
55A	——	69D	——
56(1)	12(1)	70	——
56(2)(i)	12(1A)	71	24(1) & (2A)
56(2)(i-a) to (iii)	——	72(1)	24(2)(ii) & (iii)
57(i)	12(2)	72(2)	24(2), prov. (b)
57(ii)	12(3) & (4)	72(3)	24(2)(iii)
57(iii)	12(2)	73(1)	24(1), 1st prov.
57, prov. & Expln.	——	73(2)	24(2)(i) & (iii)
58(1)(a)	12(2), prov.	73(3)	24(2), prov. (b)
58(1)(b)	12(5)	73(4)	24(2)(iii)
58(1A)	——	74	24(2A) & (2B)
58(2) & (3)	——	74A	——
59(1)	12(5)	75	24(1), 2nd prov., & 24(2), prov. (c)
59(2) & (3)	——	76	24(2), prov. (d)
60	16(1)(c)	77(1)	24(1), 2nd prov.
61	16(1)(c)		

1961 Act	1922 Act	1961 Act	1922 Act
77(2)(a)	24(1), 2nd prov.	80-O	——
77(2)(b)	24(2), prov. (c)	80P	14(3)
78	24(2), prov. (e)	[80Q]	14(4)
79	——	80QQ	——
80	22(2A)	80R	——
80A	——	80RR	——
80B	——	80RRA	——
80C(1) & (2)(a)	15(1) & 17(2)	80S	10(5A)
80C(1) & (2)(b)	15(2) & 17(2)	80T	17(6)
80C(1) & (2)(c)	7(1), 1st prov., & 17(2)	80TT	——
		80U	——
80C(1) & (2)(d)	58F	80V	——
80C(1) & (2)(e)	58R	80VV	——
80C(1) & (2)(f) & (g)	——	[81]	14(3)
80C(3)	15(2A)	[82]	14(4)
80C(4)	15(3)	[83]	14(5)
80C(5)	——	[84]	15C(1) to (3) & (5) to (7)
80D	——		
80E	——	[85]	15C(4)
80F	——	[85A to 85C]	——
80FF	——	[86(i)]	8, 2nd prov.
80G	15B & 17(2)	[86(ii)]	8, 3rd prov.
80GG	——	86(iii)	14(2)(a)
[80H]	——	[86(iv)]	14(2)(aa)
80HH	——	86(v)	14(2)(b)
[80-I]	——	86A	8, 2nd & 3rd provs.
80J	15C(1) to (3) & (5) to (7)	[87(1)(a)]	15(1) & 17(2)
80JJ	——	[87(1)(b)]	15(2) & 17(2)
80K	15C(4)	[87(1)(c)]	7(1), 1st prov., & 17(2)
80L	——		
80M	——	[87(1)(d)]	58F
80MM	——	[87(1)(e)]	58R
80N	——	[87(1)(f)]	——

1961 Act	1922 Act	1961 Act	1922 Act
[87(2)]	15(2A)	109(i) to (i-b)	23A(1)
[87(3)]	15(3)	109(ii-a)	——
[87A]	——	109(iii)	23A, Expln. 2
[88]	15B & 17(2)	109(iv)	——
89	60(2)	110	17(2) & (3)
90	49A	111	58G
91	49D	[112]	10(5A)
92	42(2)	112A	——
93	44D	[113]	17(1) & (1A)
94	44E & 44F	[114]	17(6)
[95(1)]	55	115	17(7)
[95(1), prov.]	60B(1)	115A	——
[95(2)]	60B(2)	115B	——
[95(3)]	55, 1st prov.	116	5(1)
[96]	56	117(1)	5(1A) to (3)
[97]	58(1)	117(2)	5(3)
[98]	44E & 44F	117(3)	5(3A)
[99(1)(i)]	55, 2nd prov	118(1)	5(7)(i)
[99(1)(ii)]	55, 2nd prov	118(2)	5(7)(ii)
[99(1)(iii)]	14(4)	118(3)	5(5A)
[99(1)(iv)]	56A	119(1)	5(8)
[99(1)(v)]	14(3)	119(2)	——
[99(2)]	14(5)	119(3)	5(7B)
[100]	15B & 17(3)	120	5(1A)
[101]	15C & 17(3)	121	5(2)
[102]	14(2)(aa) & 17(3)	122	5(4)
		123	5(5)
[103]	60(2)	124(1) & (2)	5(5)
104	23A(1)	124(3)	64(1) & (2)
105 (with 109(ii))	23A(2)	124(4)	64(3)
106	——	124(5)	64(3). 2nd prov.
107	23A(8)	124(6)	64(3), 3rd prov.
107A	——	124(7)	64(4)
108	23A(9)	125	5(5)

1961 Act	1922 Act
125A	——
126	5(6)
127	5(7A)
127, Expln.	5, Expln.
128	5(5A)
129	5(7C) & 1st prov
130	——
130A	——
131(1)	37(1)
131(1A) & (2)	——
131(3)	37(3)
132(1) & (13)	37(2)
132(1A) to (12),(14), & Explns.	——
132A	——
132B	——
133	38
133A	——
134	39
135	5(7B)
136	37(4)
[137]	54
138(1)(a)	——
138(1)(b)	59B
138(2)	——
139(1) & (1A)	——
139(2)	22(2)
139(3)	22(2A)
139(4)	22(3)
139(4A)	——
139(5)	22(3)
139(6)	——
139(6A)	22(5)
139(7) & (8)	——
139A	——
140	——
140A	——
[141]	23B(1) to (4), (7) & (8)
141A	——
142(1)	22(4)
142(2) to (3)	——
143	23(1) to (3)
144	23(4)
144A	——
144B	——
145	13
146	27
147	34(1) & Expln.
148	34(1)
149	34(1), 1st & 2nd provs
150	34(3), 2nd prov.
151	34(1), 1st prov., cl. (iii)
152(1)	34(1), 3rd prov.
152(2)	34(2)
153	34(3)
153, Expln. 1(i)	5(7C), 2nd prov.
153, Explns 1(ii) to (v), 2 & 3	——
154	35(1), (3) & (4)
155(1)	35(5)
155(2)	35(8)
155(3)	35(6)
155(4) & (4A)	——
155(5)	35(11)
155(5A) & (6)	——
155(7)	35(7)

1961 Act	1922 Act
155(8) to (13)	——
156	29
157	24(3)
158	23(6)
159	24B
160(1)(i)	40(2) & 42(1)
160(1)(ii)	40(1)
160(1)(iii) & (iv)	41(1)
160(2)	42(1)
161	40, 41(1) & 42 (1)
162(1)	——
162(2)	42(1), 2nd prov.
162(3)	42(1), 3rd prov.
163	40(2) & 43
164(1)	41(1), 1st prov.
164(2) & (3)	——
165	41(1), 2nd prov.
166	41(2) & 42(1)
167	——
168	——
169	——
170(1)	26(2)
170(2) & (3)	26(2), prov.
170(4)	25A(2)
171	25A
172	44A, 44B & 44C
173	42(1), 1st prov.
174	24A
175	——
176(1)	25(1)
176(2)	——
176(3)	25(2)
176(3A) & (4)	——
176(5)	[illegible]
176(6)	[illegible]
176(7)	
177	44
178	—
179	—
180	12AA
181	[illegible]
182	23(5)(a)
183	23(5)(b)
184 to 186	[illegible]
187	26(1)
188	26(2)
189	44
190	—
191	17
[191(2)]	[illegible]
192(1)	18(2)
[192(2)]	18(2B)
192(3)	18(2), prov.
192(4)	28B
192(5)	58S(2)
192(6)	18(2A)
[192, Expln.]	18(1)
193	18(3)
193, prov.	——
194	18(3D)
194A	——
194B	——
194C	——
194D	——
195(1)	18(3B) & 2nd prov.
195(2)	18(3C)

1961 Act	1922 Act	1961 Act	1922 Act
195(3) to (5)	——	212(3A)	——
196	18(10)	213	18A(4)
197(1) & (2)	18(2B), prov., 18(3), provs., & 18(3B), 1st prov.	214	18A(5)
		215	18A(6)
		216	18A(7)
		217	18A(8)
197(3)	18(3F)	218	18A(10)
198	18(4)	219	18A(11)
199	18(5) & 2nd & 3rd provs.	220(1), (4), (6) & (7)	45
200	18(6)	220(2), (3) & (5)	——
201	18(7)	221	46(1) & (1A)
202	18(8)	222(1)	46(2)
203	18(9)	222(2)	46(7), Expln.
204	18, Expln.	223	——
205	7(1), 2nd prov.	224	——
206(1)	21	225	——
206(2)	58T	226(1)	46(7), Expln.
206A	——	226(2)	46(5)
207(1)	18A(1)(a) & (12)	226(3)	46(5A)
207(2)	——	226(4)	——
208	18A(1)(a)	226(5)	46(3) & (4)
209(1)	18A(1)(a)	227	46(6)
209(1), Expln.	18A(1)(a), 2nd prov.	228	46(7A) to (10)
209(2) & (3)	——	228A	——
210(1) & (2)	18A(1)(a)	229	47
210(3)	18A(1)(a), 3rd prov.	230	46A
		230A	——
211(1)	18A(1)(a) & 1st prov.	231	46(7)
		232	46(7), Expln.
211(2)	18A(1)(b)	[233]	23B(5)
212(1)	18A(2)	234 (deleted portion)	23B(6)
212(2)	18A(2), prov.	234, remaining portion	——
212(3)	18A(3)		

1961 Act	1922 Act
[235]	49B
236	49BB
236A	——
237	48(1)
238(1)	48(3)
238(2)	49I
239	50
240	48(2) & 66(7), prov
241	——
242	48(4)
243	——
244	——
245	49E
245A to 245M	——
246	30(1)
247	30(1), 2nd prov.
248	30(1A)
249(1)	30(3)
249(2) & (3)	30(2)
249(4)	——
250(1)	31(1)
250(2)	31(3), 2nd prov.
250(3)	31(1)
250(4)	31(2)
250(5)	31(2A)
250(6)	——
250(7)	31(5)
251	31(3) & 1st prov.
252	5A(1) to (4)
253(1)(a)	33(1)
253(1)(b)	——
253(1)(c)	33B(3)
253(2)	33(2)

1961 Act	1922 Act
253(3)	33(1) & (2) & 33B(3)
253(4)	
253(5)	33(2A)
253(6)	[illegible]
254(1)	[illegible]
[254(1A)]	
254(2)	[illegible]
254(3)	[illegible]
254(4)	[illegible]
255(1) to (5)	[illegible]
255(6)	[illegible]
256(1)	[illegible]
256(2)	[illegible]
256(3)	[illegible]
257	
258	[illegible]
259	[illegible]
260(1)	[illegible]
260(2)	66(6)
261	66A(2)
262(1)	[illegible]
262(2)	——
262(3)	[illegible]
263(1)	33B(1)
263(2)	33B(2)
263(3)	——
263, Expln.	——
264	33A
265	66(7)
266	66A(3), 2nd prov.
267	31(1) & 33(5)
268	67A
269	66(8)

1961 Act	1922 Act	1961 Act	1922 Act
269A to 269S	——	278B	——
270	44E(6) & 44F(5)	278C	——
271(1)	28(1) & (6)	278D	——
271(1), Explns.	——	279(1) & (2)	53
271(1A)	——	279(1A) & (3)	——
271(2)	28(1), prov. (d)	279A	——
271(3)(a)	28(1), prov. (a)	280(1)	54(2)
271(3)(b)	28(1), prov. (b)	280(2)	54(5)
271(3)(c)	28(1), prov. (c)	280A to 280ZE	——
271(3)(d)	——	281	——
271(4)	28(2)	281A	——
[271(4A) & (4B)]	——	281B	——
271A	——	282	63
272	25(2)	283	——
272A(2)	51	284	25(6)
272A, remaining portion	——	285	20A
		285A	——
272B	——	285B	——
273	18A(9)	286	19A
273A	——	287	59A
274(1)	28(3)	287A	——
[274(2)]	28(6)	288	61
274(3)	28(5)	288A	——
275	——	288B	——
275A	——	289	62
[276]	51	290	65
276A	——	291	——
276B	51(a)	292	——
276C	——	292A	——
276CC	51(c)	292B	——
276D	51(d)	293	67
277	52	294	67B
278	——	294A	——
278A	——	295	59

1961 Act	1922 Act	1961 Act	1922 Act
296	——	r. 9(1)	58G(3)
297	——	r. 9(2)	58G(1)
298	——	r. 10	58H
1st Schedule	Schedule	r. 11	58J(1), (2), (3) & (5)
r. 1	r. 1	r. 12	58-I
r. 2	r. 2	r. 13	58B(4)
[r. 3]	r. 3	r. 14	58K
r. 4	r. 4	r. 15	58L
r. 5	r. 6	Part B:	
r. 6	r. 8	r. 1	58N
r. 7	r. 5	r. 2	58-O
2nd Schedule	——	r. 3	58P
3rd Schedule	——	r. 4	58Q
4th Schedule		r. 5	58S(1)
Part A.		r. 6	58S(2)
r. 1	58M	r. 7	58T
r 2	58A	r. 8	——
r. 3	58B(1) to (3A)	r. 9	58U
r. 4	58C(1)	r. 10	58V
r 5(1)	58C(1)(a), prov.	r. 11	——
r 5(2)	58C(1)(b), prov.	Part C	——
r. 5(3)(a)	58C(1)(g)	5th Schedule	——
r. 5(3)(b)	58C(1)(d), prov.	[6th Schedule]	——
r. 5(3)(c)	——	7th Schedule	——
r. 5(4)	58D	8th Schedule	——
r. 5(5)	58J(4)	9th Schedule	——
r. 6	58E	10th Schedule	——
r. 7	58F		
r. 8	58G(2)		

DIVISION 1

THE INDIAN INCOME-TAX ACT, 1922

NOTE.—(1) Where an amendment is made with retrospective effect from a particular date, the footnote indicates that the amendment is "w. e. f." that date. If the amendment has full retrospectivity, *i.e.* from the date of the commencement of the Act or of the relevant statutory provision to which the amendment relates, the expression "retrospectively" *simpliciter* is used in the footnote.

(2) References in the margin are to the Indian Income-tax Rules, 1922.

LAWS AMENDING THE INDIAN INCOME-TAX ACT, 1922

(References are to the pages of the STATUTES SECTION of ITR)

The Indian Income-tax (Amendment) Act, 1923 (15 of 1923)	
The Indian Income-tax (Further Amendment) Act, 1923 (27 of 1923)	
The Central Board of Revenue Act, 1924 (4 of 1924)	
The Repealing and Amending Act, 1924 (7 of 1924)	
The Indian Income-tax (Amendment) Act, 1924 (11 of 1924)	
The Indian Income-tax (Amendment) Act, 1925 (5 of 1925)	
The Indian Income-tax (Second Amendment) Act, 1925 (16 of 1925)	
The Indian Income-tax (Amendment) Act, 1926 (24 of 1926)	
The Repealing Act, 1927 (12 of 1927)	
The Indian Income-tax (Amendment) Act, 1927 (28 of 1927)	
The Indian Income-tax (Amendment) Act, 1928 (3 of 1928)	
The Indian Income-tax (Amendment) Act, 1928 (16 of 1928)	
The Indian Income-tax (Provident Funds Relief) Act, 1929 (12 of 1929)	
The Indian Income-tax (Amendment) Act, 1930 (21 of 1930)	
The Indian Income-tax (Second Amendment) Act, 1930 (22 of 1930)	
The Indian Income-tax (Third Amendment) Act, 1930 (23 of 1930)	
The Indian Income-tax (Amendment) Act, 1931 (4 of 1931)	
The Indian Income-tax (Amendment) Act, 1933 (12 of 1933)	1 ITR ii
The Indian Income-tax (Second Amendment) Act, 1933 (18 of 1933)	1 ITR iii
The Repealing and Amending Act, 1934 (24 of 1934)	
The Government of India (Adaptation of Indian Laws) Order, 1937	
The Indian Income-tax (Amendment) Act, 1937 (4 of 1937)	5 ITR 27
The Repealing and Amending Act, 1937 (20 of 1937)	5 ITR 46
The Indian Income-tax (Amendment) Act, 1939 (7 of 1939)	7 ITR 1
The Income-tax Law Amendment Act, 1940 (12 of 1940)	8 ITR 65
The Indian Income-tax (Amendment) Act, 1940 (40 of 1940)	9 ITR 3
The Indian Income-tax (Amendment) Act, 1941 (23 of 1941)	9 ITR 65
The Repealing and Amending Act, 1942 (25 of 1942)	10 ITR 9
The Indian Income-tax (Amendment) Act, 1944 (11 of 1944)	12 ITR 21
The Indian Income-tax (Amendment) Ordinance, 1945 (9 of 1945)	13 ITR 5
The Indian Income-tax (Amendment) Act, 1946 (8 of 1946)	14 ITR 11
The Income-tax and Excess Profits Tax (Amendment) Act, 1947 (22 of 1947)	15 ITR 19
The India (Adaptation of Income-tax, Profits Tax and Revenue Recovery Acts) Order, 1947	16 ITR 1
The Income-tax and Business Profits Tax (Amendment) Act, 1947 (44 of 1947)	16 ITR 13
The Repealing and Amending Act, 1947 (2 of 1948)	16 ITR 17
The Indian Finance Act, 1948 (20 of 1948)	16 ITR 54

The Income-tax and Business Profits Tax (Amendment) Act, 1948 (48 of 1948)	16 ITR 87
The Indian Income-tax (Amendment) Act, 1948 (55 of 1948)	16 ITR 98
The Indian Finance Act, 1949 (14 of 1949)	17 ITR 11
The Taxation Laws (Extension to Merged States and Amendment) Act, 1949 (67 of 1949)	18 ITR 17
The Adaptation of Laws Order, 1950	18 ITR 53
The Finance Act, 1950 (25 of 1950)	18 ITR 83
The Administration of Evacuee Property Act, 1950 (31 of 1950)	
The Indian Income-tax (Amendment) Act, 1950 (71 of 1950)	19 ITR 29
The Finance Act, 1951 (23 of 1951)	19 ITR 81
The Finance Act, 1953 (14 of 1953)	23 ITR 117
The Indian Income-tax (Amendment) Act, 1953 (25 of 1953)	23 ITR 133
The Finance Act, 1954 (17 of 1954)	25 ITR 89
The Indian Income-tax (Amendment) Act, 1954 (33 of 1954)	26 ITR 45
The Taxation Laws (Extension to Jammu and Kashmir) Act, 1954 (41 of 1954)	27 ITR 1
The Finance Act, 1955 (15 of 1955)	27 ITR 55
The Finance Act, 1956 (18 of 1956)	29 ITR 49
The Indian Income-tax (Amendment) Act, 1956 (26 of 1956)	30 ITR 1
The Finance (No 3) Act, 1956 (77 of 1956)	31 ITR 9
The Adaptation of Laws (No 3) Order, 1956	31 ITR 17
The Finance Act, 1957 (5 of 1957)	31 ITR 61
The Finance (No 2) Act, 1957 (26 of 1957)	32 ITR 71
The Finance Act, 1958 (11 of 1958)	33 ITR 141
The Indian Income-tax (Amendment) Act, 1959 (1 of 1959)	35 ITR 85
The Finance Act, 1959 (12 of 1959)	36 ITR 1
The Finance Act, 1960 (13 of 1960)	[illegible] ITR 1
The Taxation Laws (Amendment) Act, 1960 (28 of 1960)	[illegible] ITR 9
The Finance Act, 1961 (14 of 1961)	42 ITR 1

THE INDIAN INCOME-TAX ACT, 1922

ACT No. XI OF 1922[1]

[*5th March 1922*]

An Act to consolidate and amend the law relating to Income-tax and Super-tax

WHEREAS it is expedient to consolidate and amend the law relating to Income-tax and Super-tax, it is hereby enacted as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Indian Income-tax Act, 1922

[2][(2) It extends to the whole of India]

(3) It shall come into force on the first day of April, 1922.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "agricultural income" means—

(*a*) any rent or revenue derived from land which is used for agricultural purposes, and is either assessed to land-revenue in [3][the taxable territories] or subject to a local rate assessed and collected by [4][officers of the Government] as such,

(*b*) any income derived from such land by—

(*i*) agriculture, or

(*ii*) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or

(*iii*) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in sub-clause (*ii*), **Rr 23, 2**

(*c*) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator, or the receiver of rent-in-kind, of any land with respect to which, or the produce of which, any operation mentioned in sub-clauses (*ii*) and (*iii*) of clause (*b*) is carried on

Provided that the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator or the receiver of the rent-in-kind by reason of his connection with the land, requires as a dwelling-house, or as a store-house, or other out-building,

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[1] This Act had been declared in force in the district of Khondmals by s 3 and Sch , Khondmals Laws Regulation, 1936 (4 of 1936), and in the district of Angul by s 3 and Sch , Angul Laws Regulations, 1936 (5 of 1936), and had been extended to Berar by Berar Laws Act, 1941 (4 of 1941)

[2] Substituted by s 2 and Sch , Taxation Laws (Extension to Jammu and Kashmir) Act, 1954

[3] Substituted for "British India" by Adaptation of Laws Order, 1950

[4] Substituted for "Officers of the Crown", *ibid* "Officers of the Crown" substituted for "Officers of Government" by Government of India (Adaptation of Indian Laws) Order, 1937

[5][(2) "assessee" means a person by whom income-tax or any other sum of money is payable under this Act, and includes every person in respect of whom any proceeding under this Act has been taken for the assessment of his income or of the loss sustained by him or of the amount of refund due to him,]

(3) "[6][Appellate] Assistant Commissioner" means a person appointed to be an [6][Appellate] Assistant Commissioner of Income-tax under section 5,

(3A) [7]* * * * *

(4) "business" includes any trade, commerce, or manufacture or any adventure or concern in the nature of trade, commerce or manufacture;

[8][(4A) "capital asset" means property of any kind [9]* held by an assessee, whether or not connected with his business, profession or vocation, but does not include—

(i) any stock-in-trade, consumable stores or raw materials held for the purposes of his business, profession or vocation,

(ii) personal effects, that is to say, movable property (including wearing apparel, jewellery and furniture) held for personal use by the assessee or any member of his family dependent on him;

[10][(iii) any land from which the income derived is agricultural income,]]

[11][(4B) "the Central Board of Revenue" means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924 (IV of 1924);]

(5) "Commissioner" means a person appointed to be a Commissioner of Income-tax under section 5,

[12][(5A) "company" means—

(i) any Indian company, or

(ii) any association, whether incorporated or not and whether Indian or non-Indian, which is or was assessable or was assessed as a company for the assessment for the year ending on the 31st day of March, 1948, or which is declared by general or special order of the Central Board of Revenue to be a company for the purposes of this Act,]

[13][(5B) "co-operative society" means a co-operative society registered under the Co-operative Societies Act, 1912 (II of 1912), or under any other law for the time being in force in any State for the registration of co-operative societies,]

[14][(6) "Director of Inspection" means a person appointed to be a Director of Inspection under section 5, and includes a person appointed to be an Additional Director of Inspection, a Deputy Director of Inspection or an Assistant Director of Inspection,]

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5 Substituted by s 2, Indian I T (Amendment) Act, 1953, w e f 1-4-1952

6 Inserted by s 2, Indian I T (Amendment) Act, 1939

7 Inserted by India (Adaptation of Income-tax, Profits Tax and Revenue Recovery Acts) Order, 1947 and omitted by Adaptation of Laws Order, 1950

8 Inserted by s 2, I T and E P T (Amendment) Act, 1947

9 "(Other than agricultural land)" omitted by s 2, I T and E P T (Amendment) Act, 1947, w e f 1-4-1947

10 Inserted, *ibid*

11 Inserted as cl (4A) by s 4 and Sch, Central Board of Revenue Act, 1924, and renumbered "(4B)" by s 2, I T and E P T (Amendment) Act, 1947

12 Cl (6) substituted by s 8, Indian F Act, 1949, w e f 1-4-1948 (the amendment being applicable also to completed assessments), and renumbered "(5A)" by s 2, Indian I T (Amendment) Act, 1953, w e f 1-4-1952

13 Inserted by s 3, F Act, 1955, w e f 1-4-1955

14 Inserted by s 2, Indian I T (Amendment) Act, 1953, w e f 1-4-1952

[15][(*6A*) "dividend" includes—

(*a*) any distribution by a company of accumulated profits, whether capitalised or not, if such distribution entails the release by the company to its shareholders of all or any part of the assets of the company,

(*b*) any distribution by a company of debentures, [16][debenture-stock or deposit certificates in any form, whether with or without interest], to the extent to which the company possesses accumulated profits, whether capitalised or not,

[17][(*c*) any distribution made to the shareholders of a company on its liquidation, to the extent to which the distribution is attributable to the accumulated profits of the company immediately before its liquidation, whether capitalised or not,]

[18]* * * * *

(*d*) any distribution by a company on the reduction of its capital to the extent to which the company possesses accumulated profits which arose after the end of the previous year ending next before the 1st day of April, 1933, whether such accumulated profits have been capitalised or not,

[19][(*e*) any payment by a company, not being a company in which the public are substantially interested within the meaning of section 23A, of any sum (whether as representing a part of the assets of the company or otherwise) by way of advance or loan to a shareholder or any payment by any such company on behalf or for the individual benefit of a shareholder, to the extent to which the company in either case possesses accumulated profits,

but "dividend" does not include—

(*i*) a distribution made in accordance with sub-clause (*c*) or sub-clause (*d*) in respect of any share issued for full cash consideration where the holder of the share is not entitled in the event of liquidation to participate in the surplus assets,

(*ii*) any advance or loan made to a shareholder by a company in the ordinary course of its business where the lending of money is a substantial part of the business of the company,

(*iii*) any dividend paid by a company which is set off by the company against the whole or any part of any sum previously paid by it and treated as a dividend within the meaning of clause (*e*), to the extent to which it is so set off,

Explanation—The expression "accumulated profits", wherever it occurs in this clause, shall not include capital gains arising before the 1st day of April, 1946, or after the 31st day of March, 1948, [20][and before the 1st day of April, 1956],]]

[21][(*6AA*) "earned income" means any income of an assessee who is an individual, Hindu undivided family, unregistered firm or other association of persons

15 Inserted by s 2, Indian I T (Amendment) Act, 1939
16 Substituted for "or debenture-stock" by s 3, F Act, 1955, w e f 1-4-1955
17 Substituted by s 3, F Act, 1956, w e f 1-4-1956
18 The proviso omitted by s 3, F Act, 1955, w e f 1-4-1955
19 Substituted for the original provisos, *ibid*, w e f 1-4-1955
20 Inserted by s 2, F (No 3) Act, 1956, w e f 1-4-1957
21 Inserted by s 2, Indian I T (Amendment) Ordinance, 1945

not being a company, a local authority, a registered firm or a firm [22][assessed] under clause (*b*) of sub-section (5) of section 23—

(*a*) which is chargeable under the head "Salaries", or

(*b*) which is chargeable under the head "Profits and gains of business, profession or vocation" where the business, profession or vocation is carried on by the assessee or, in the case of a firm, where the assessee is a partner actively engaged in the conduct of the business, profession or vocation, or

(*c*) which is chargeable under the head "Other sources" if it is immediately derived from personal exertion or represents a pension or super-annuation or other allowance given to the assessee in respect of his past services or the past services of any deceased person;

and includes any such income which, though it is the income of another person, is included in the assessee's income under the provisions of this Act, but does not include any such income which is exempt from tax under sub-section (2) of section 14 or under a notification issued under section 60,]

[23][(*6B*) "firm", "partner" and "partnership" have the same meanings respectively as in the [24][Indian Partnership Act, 1932 (IX of 1932)]]:

[25][provided that the expression "partner" includes any person who being a minor has been admitted to the benefits of partnership,]

[1][(*6C*) "income" includes—

(*i*) dividend,

(*ii*) the value of any perquisite or profit in lieu of salary taxable under section 7,

(*iii*) the value of any benefit or perquisite, whether convertible into money or not, obtained from a company either by a director or by any other person who has a substantial interest in the company (that is to say, who is concerned in the management of the business of the company, being the beneficial owner of shares, not being shares entitled to a fixed rate of dividend whether with or without a right to participate in profits, carrying not less than twenty per cent. of the voting power), and any sum paid by any such company in respect of any obligation which but for such payment would have been payable by the director or other person aforesaid,

(*iv*) any sum deemed to be profits under the second proviso to clause (*vii*) of sub-section (2) of section 10 and any sum deemed to be profits and gains under sub-section (2A) of that section or under sub-section (5) of section 12,

(*v*) any sum deemed to be profits and gains of business, profession or vocation under sub-section (5A) of section 10;

(*vi*) any capital gain chargeable under section 12B,

(*vii*) the profits and gains of any business of insurance carried on by a mutual insurance association or by a co-operative society computed in accordance with rule 9 in the Schedule,]

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[22] Substituted for "treated as registered" by s 3, F Act, 1956, w e f 1-4-1956

[23] Inserted as cl (*6A*) by s 2, Indian I T (Amendment) Act, 1930, and renumbered "(*6B*)" by s 2, Indian I T (Amendment) Act, 1939

[24] Substituted for "Indian Contract Act, 1872" by s 2, Indian I T (Amendment) Act, 1939

[25] Inserted, *ibid*

[1] Inserted, *ibid*, and substituted by s 3, F Act, 1955, w e f 1-4-1955

[2][(*6D*) "Inspecting Assistant Commissioner" means a person appointed to be an Inspecting Assistant Commissioner of Income-tax under section 5,]

[3][(*6E*) "Inspector of Income-tax" means a person appointed to be an Inspector of Income-tax under section 5,]

(*7*) "Income-tax Officer" means a person appointed to be an Income-tax Officer under section 5,

[4][(*7A*) "Indian company" means a company as defined in the Indian Companies Act, 1913 (VII of 1913), and includes a company formed and registered under any law in force in the merged territories or [5][in the territories which immediately before the 1st November, 1956, were comprised in any Part B State] other than the State of Jammu and Kashmir before the extension thereto of the Indian Companies Act, 1913, and in the case of the State of Jammu and Kashmir, any company formed and registered under any law in force in that State provided that the registered office of the company in all cases is in the taxable territories,]

(*8*) "Magistrate" means a Presidency Magistrate or a Magistrate of the first class, or a Magistrate of the second class specially empowered by [6][the Central Government] [7][or in the State of Jammu and Kashmir the State Government] to try offences against this Act,

[8][(*8A*) "manager" and "managing agent" have the meanings respectively assigned to them in the Indian Companies Act, 1913 (VII of 1913),]

(*9*) "person" includes a Hindu undivided family [9][and a local authority],

(*10*) "prescribed" means prescribed by rules made under this Act,

[10][(*11*) "previous year" means—

(*i*) in respect of any separate source of income, profits and gains—

(*a*) the twelve months ending on the 31st day of March next preceding the year for which the assessment is to be made, or, if the accounts of the assessee have been made up to a date within the said twelve months in respect of a year ending on any date other than the said 31st day of March, then, at the option of the assessee, the year ending on the date to which his accounts have been so made up

Provided that where in respect of a particular source of income, profits and gains an assessee has once been assessed, or where in respect of a business, profession or vocation newly set up an assessee has exercised the option under sub-clause (*c*), he shall not, in respect of that source or, as the case may be, business, profession or vocation, exercise the option given by this sub-clause so as to vary the meaning of the expression "previous year" as then applicable to him except with the consent of the Income-tax Officer and upon such conditions as the Income-tax Officer may think fit to impose, or

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[2] Inserted by s 2, Indian I T (Amendment) Act, 1939
[3] Inserted by s 2, Indian I T (Amendment) Act, 1953, w e f 1-4-1952
[4] Substituted by s 2 and Sch , Taxation Laws (Extension to Jammu and Kashmir) Act, 1954
[5] Substituted for "in any Part B State" by Adaptation of Laws (No 3) Order, 1956, w e f 1-11-1956
[6] Substituted for "the Local Government" by Government of India (Adaptation of Indian Laws) Order, 1937
[7] Inserted by s 2 and Sch , Taxation Laws (Extension to Jammu and Kashmir) Act, 1954
[8] Inserted by s 3, F Act, 1955, w e f 1-4-1955
[9] Inserted by s 2, Indian I T (Act, 1939
[10] Substituted by s 2, Indian I T ( ) Act, 1953, w e f 1-4-1952

(*b*) in the case of any person, business or company or class of person, business or company, such period as may be determined by the Central Board of Revenue or by such authority as the Board may authorise in this behalf, or

(*c*) where a business, profession or vocation has been newly set up in the financial year preceding the year for which assessment is to be made, the period from the date of the setting up of the business, profession or vocation to the 31st day of March next following or to the last day of the period determined under sub-clause (*b*), or, if the accounts of the assessee are made up in respect of a period not exceeding twelve months from the date of the setting up of the business, profession or vocation and the case is not one for which a period has been determined under sub-clause (*b*), then, at the option of the assessee, the period from the date of the setting up of the business, profession or vocation to the date to which his accounts have been so made up

Provided that when the date to which the accounts have been so made up does not fall between the setting up of the business, profession or vocation and the next following 31st day of March inclusive, it shall be deemed that there is no previous year for the said assessment year and the previous year which would otherwise have been determined according to the option exercised by the assessee shall be deemed to be the previous year for the next succeeding assessment year,

(*ii*) in respect of the share of the income, profits and gains of a firm where the assessee is a partner in the firm and the firm has been assessed as such, the period as determined for the assessment of the income, profits and gains of the firm,]

(*12*) "principal officer", used with reference to a local authority or a company or any other public body or [11][any] association, means—

(*a*) the secretary, treasurer, manager or agent of the authority, company, body or association, or

(*b*) any person connected with the authority, company, body or association upon whom the Income-tax Officer has served a notice of his intention of treating him as the principal officer thereof,

(*13*) "public servant" has the same meaning as in the Indian Penal Code (XLV of 1860),

Rr 2-6B [12][(*14*) "registered firm" means a firm registered under the provisions of section 26A],

[13][(*14A*) "taxable territories" means—

(*a*) as respects any period before the 15th day of August, 1947, the territories then referred to as British India, but including Berar,

(*b*) as respects any period after the 14th day of August, 1947, and before the 26th day of January, 1950, the territories for the time being comprised in the Provinces of India, but excluding the merged territory of Cooch-Behar,

[11] Inserted by s 2, Indian I T (Amendment) Act, 1924
[12] Substituted by s 2, Indian I T (Amendment) Act, 1930
[13] Inserted by Adaptation of Laws Order, 1950, and substituted by s 3, F Act, 1950, w e f. 1-4-1950

(*c*) as respects any period after the 25th day of January and before the 1st day of April, 1950, the territories comprised in Part A States, but excluding the merged territory of Cooch-Behar, and the territories comprised in Part C States, but excluding the States of Manipur, Tripura and Vindhya Pradesh,

(*d*) as respects any period after the 31st day of March, 1950, and before the 13th day of April, 1950, the territory of India excluding the State of Jammu and Kashmir and the Patiala and East Punjab States Union,[14]*

(*e*) as respects any period after the 12th day of April, 1950, the territory of India excluding the State of Jammu and Kashmir,

[15][(*f*) as respects any period after the 12th day of April, 1954, the whole of the territory of India]

Provided that the taxable territories shall be deemed to include—

(*a*) the merged territories—

(*i*) as respects any period after the 31st day of March, 1949, for any of the purposes of this Act, and

(*ii*) as respects any period included in the previous year, for the purpose of making any assessment for the year ending on the 31st day of March, 1950, or for any subsequent year, and

(*b*) the whole of the territory of India excluding the State of Jammu and Kashmir—

(*i*) as respects any period, for the purposes of sections 4A and 4B,

(*ii*) as respects any period after the 31st day of March, 1950, for any of the purposes of this Act, and

(*iii*) as respects any period included in the previous year, for the purpose of making any assessment of the year ending on the 31st day of March, 1951, or for any subsequent year,]

[16][(*c*) the whole of the territory of India—

(*i*) as respects any period, for the purposes of sections 4A and 4B,

(*ii*) as respects any period after the 31st day of March, 1954, for any of the purposes of this Act, and

(*iii*) as respects any period included in the previous year, for the purpose of making any assessment for the year ending on the 31st day of March, 1955, or for any subsequent year,]

(*15*) "total income" means total amount of income, profits and gains [17][referred to in sub-section (1) of section 4] computed in the manner laid down in [18][this Act], and

[19]["total world income" includes all income, profits and gains wherever accruing or arising except income to which, under the provisions of sub-section (3) of section 4, this Act [20][does not apply and except any capital gain which is not includible in the total income of an assessee],]

(*16*) "unregistered firm" means a firm which is not a registered firm

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[14] "And" omitted by s 2 and Sch , Taxation Laws (Extension to Jammu and Kashmir) Act, 1954
[15] Inserted, *ibid*
[16] Inserted by s 2 and Sch , Taxation Laws (Extension to Jammu and Kashmir) Act, 1954
[17] Substituted for "from all sources to which this Act applies" by s 2, Indian I T (Amendment) Act, 1939
[18] Substituted for "section 16", *ibid*
[19] Inserted, *ibid*
[20] Substituted for "does not apply, and" by s 2, I T and E P T (Amendment) Act, 1947

CHAPTER I

CHARGE OF INCOME-TAX

3. Charge of income-tax.—Where any [21][Central Act] enacts that income-tax shall be charged for any year at any rate or rates [22]* * tax at that rate or those rates shall be charged for that year in accordance with, and subject to the provisions of, this Act in respect of [23][the total income] of the previous year of every [24][individual, Hindu undivided family, [25][company and local authority, and of every firm and other association of persons or the partners of the firm or the members of the association individually]]

4. Application of Act.—[1][(1) Subject to the provisions of this Act, the total income of any previous year of any person includes all income, profits and gains from whatever source derived which—

(*a*) are received or are deemed to be received in [2][the taxable territories] in such year by or on behalf of such person, or

(*b*) if such person is resident in [2][the taxable territories] during such year,—

(*i*) accrue or arise or are deemed to accrue or arise to him in [2][the taxable territories] during such year, or

(*ii*) accrue or arise to him without [2][the taxable territories] during such year, or

(*iii*) having accrued or arisen to him without [2][the taxable territories] before the beginning of such year and after the 1st day of April, 1933, are brought into or received in [2][the taxable territories] by him during such year, or

(*c*) if such person is not resident in [2][the taxable territories] during such year, accrue or arise or are deemed to accrue or arise to him in [2][the taxable territories] during such year

Provided that there shall not be included in any assessment for the year ending on the 31st day of March, 1940, both the amount of the income, profits and gains referred to in sub-clause (*ii*) of clause (*b*) and the amount of the income, profits and gains referred to in sub-clause (*iii*) of clause (*b*) but only the greater of these two amounts·

Provided further that, in the case of a person not ordinarily resident in [3][the taxable territories], income, profits and gains which accrue or arise to him without [3][the taxable territories] shall not be so included unless they are derived from a business controlled in or a profession or vocation set up in India or unless they are brought into or received in [3][the taxable territories] by him during such year

[4]* * * * *

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[21] Substituted for "Act of the Central Legislature" by Adaptation of Laws Order, 1950

[22] "Applicable to the total income of an assessee" omitted by s 3, Indian I T (Amendment) Act, 1939

[23] Substituted for "all income, profits and gains", *ibid*

[24] Substituted for "individual, company, firm and Hindu undivided family" by s. 3 read with s 11, Indian I T (Amendment) Act, 1924, w e f 1-4-1923

[25] Substituted for "company, firm and other association of individuals" by s 3, Indian I T (Amendment) Act, 1939

[1] Sub-ss (1) and (2) substituted by s 4, *ibid*

[2] Substituted for "British India" by Adaptation of Laws Order, 1950

[3] Substituted for "British India", *ibid*

[4] The proviso substituted by s 3, F Act, 1958, w e f 1-4-1958, and omitted by s 3, F Act, 1959, w e f 1-4-1959 for some purposes and w e f 1-4-1960 for other purposes as provided in ss 1(2) and 19(1)(*a*) of that Act

[5][Provided further that, in the case of a person who was not resident in the taxable territories in two out of the three years immediately preceding the previous year, so much of the income, profits and gains referred to in sub-clause (*iii*) of clause (*b*) as accrued or arose to him without India, shall not be included in his total income chargeable in any year subsequent to the year ending on the 31st day of March, 1951, whether his assessment for that year has or has not been completed before the commencement of the Indian Income-tax (Amendment) Act, 1953

Provided further that, in the case of a person resident in the taxable territories to whom the preceding proviso or paragraph 8 of the Part B States (Taxation Concessions) Order, 1950, does not apply, so much of the income, profits and gains referred to in sub-clause (*iii*) of clause (*b*) as accrued or arose to him without India and were not chargeable under this Act, unless brought into or received in the taxable territories, shall not be included in his total income if—

[6][(*i*) such income, profits and gains are brought into or received in the taxable territories after the 2nd day of September, 1951, and the amount of income-tax, interest or penalty or other sum, if any, due from such person under this Act on the date of receipt of such income, profits and gains in the taxable territories is paid within three months of the receipt thereof in the taxable territories, and

(*ii*) in any case where such income, profits and gains are brought into or received in the taxable territories after the 2nd day of September, 1951, and before the 30th day of September, 1954, half of the amount of such income, profits and gains is invested within three months of the receipt thereof in the taxable territories in securities of the Central Government or of a State Government purchased through the Reserve Bank of India and kept with the said Bank for custody for a minimum period of two years]]

Explanation 1 —Income, profits and gains accruing or arising without [7][the taxable territories] shall not be deemed to be received in or brought into [7][the taxable territories] within the meaning of this sub-section by reason only of the fact that they are taken into account in a balance sheet prepared in [7][the taxable territories]

Explanation 2 —Income which would be chargeable under the head "Salaries" if payable in [7][the taxable territories] [8]* * shall be deemed to accrue or arise in [7][the taxable territories] wherever paid if it is earned in [7][the taxable territories], [9][but any pension payable outside India to a person residing permanently outside India shall not be deemed to accrue or arise in the taxable territories, if the pension is payable to a person referred to in article 314 of the Constitution or to a person, who, having been appointed before the 15th August, 1947, to be a Judge of the Federal Court or of a High Court within the meaning of the Government of India Act, 1935, continues to serve on or after the commencement of the Constitution as a Judge in India]

[10][*Explanation 2A* —Income which would be chargeable under the head "Salaries" if payable in the taxable territories but which is paid without the taxable territories by the Government to a citizen of India for rendering service without the taxable territories shall be deemed to accrue or arise in the taxable territories]

5 Inserted by s 3, Indian I T (Amendment) Act, 1953, w e f 1-4-1952
6 Substituted by s 4, F Act, 1955, w e f 1-4-1955
7 Substituted for "British India" by Adaptation of Laws Order, 1950
8 "And not being pension payable without India" omitted by s 3, I T and B P T (Amendment) Act, 1948, w e f 30-3-1948
9 Inserted by s 3, Indian I T (Amendment) Act, 1953, w e f 1-4-1952
10 Inserted by s 3, F Act, 1959, w e f 1-4-1959 for making deductions of income-tax and super-tax under s 18(2), and w e f 1-4-1960 for other purposes

D1 ● S4

Explanation 3—A dividend paid [11][by an Indian company] without [12][the taxable territories] shall be deemed to be income accruing and arising in [12][the taxable territories] to the extent to which it has been paid out of profits subjected to income-tax in [12][the taxable territories].

[13][*Explanation 4*—For the purposes of sub-clause (*iii*) of clause (*b*) of sub-section (1), income, profits and gains accruing, or arising, in any of the [14][merged territories] [15][or any of the Part B States [16]* *] before the beginning of a previous year and after the 1st day of April, 1933, shall be deemed to be brought into, or received in, [12][the taxable territories] during such year if, and only if, they are brought into, or received in, any part of [12][the taxable territories] other than that [14][merged territory] [15][or State] during such year.]

(2) For the purposes of sub-section (1), where a husband is not resident in [12][the taxable territories], remittances received by his wife resident in [12][the taxable territories] out of any part of his income which is not included in his total income shall be deemed to be income accruing in [12][the taxable territories] to the wife.]

(3) [17][Any income, profits or gains falling within the following classes shall not be included in the total income of the person receiving them.]

[18][(*i*) Subject to the provisions of clause (*c*) of sub-section (1) of section 16, any income derived from property held under trust or other legal obligation wholly for religious or charitable purposes, in so far as such income is applied or accumulated for application to such religious or charitable purposes as relate to anything done within the taxable territories, and in the case of property so held in part only for such purposes, the income applied or finally set apart for application thereto:

Provided that such income shall be included in the total income—

[19][(*a*) if it is applied to religious or charitable purposes without the taxable territories, but in the following cases, namely:—

(i) where the property is held under trust or other legal obligation created before the commencement of the Indian Income-tax (Amendment) Act, 1953 (XXV of 1953), and the income therefrom is applied to such purposes without the taxable territories; and

(ii) where the property is held under trust or other legal obligation created after such commencement, and the income therefrom is applied without the taxable territories to charitable purposes which tend to promote international welfare in which India is interested,

the Central Board of Revenue may, by general or special order, direct that it shall not be included in the total income;]

(*b*) in the case of income derived from business carried on on behalf of a religious or charitable institution, unless the income is applied wholly for the purposes of the institution and either—

(i) the business is carried on in the course of the actual carrying out of a primary purpose of the institution, or

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[11] Inserted by s. 8, Indian F. Act, 1948.
[12] Substituted for "British India" by Adaptation of Laws Order, 1950.
[13] Inserted by s. 9, Taxation Laws (Extension to Merged States and Amendment) Act, 1949.
[14] Substituted for "merged States" and "merged State" by Adaptation of Laws Order, 1950.
[15] Inserted by s. 3, F. Act, 1950, w. e. f. 1-4-1950.
[16] "Other than the State of Jammu and Kashmir" omitted by s. 2 and Sch., Taxation Laws (Extension to Jammu and Kashmir) Act, 1954.
[17] Substituted for "This Act shall not apply to the following classes of income" by s. 4, Indian I.T. (Amendment) Act, 1939.
[18] Substituted by s. 3, Indian I.T. (Amendment) Act, 1953, w. e. f. 1-4-1952.
[19] Substituted by s. 4, F. Act, 1955, w. e. f. 1-4-1955.

(ii) the work in connection with the business is mainly carried on by beneficiaries of the institution,

(c) if it is applied to purposes other than religious or charitable purposes or ceases to be accumulated or set apart for application thereto in which case it shall be deemed to be the income of the year in which it is so applied or ceases to be so accumulated or set apart]

(*ii*) Any income of a religious or charitable institution derived from voluntary contributions and applicable solely to religious or charitable purposes.

[20][(*ii-a*) Any income of an association or institution established in India having as its object the control, supervision, regulation or encouragement in India of the games of cricket, hockey, football, tennis or such other games or sports as the Central Government may specify in this behalf from time to time by notification in the Official Gazette

Provided that—

(i) the association or institution applies its income or accumulates it for application, solely to the objects for which it is established,

(ii) no part of the income of the association or institution is distributed in any manner to its members except as grants to any association or institution affiliated to it, and

(iii) the association or institution is, for the time being, approved for the purpose of this clause by the Central Government by general or special order]

(*iii*) The income of local authorities [21][except income from a trade or business carried on by the authority so far as that income is not income arising from the supply of a commodity or service within its own jurisdictional area]

(*iv*) Interest on securities which are held by, or are the property of, any Provident Fund to which the Provident Funds Act, [22][1925 (XIX of 1925)], applies, [23]* * [24][and any capital gains of the Fund arising from the sale, exchange or transfer of such securities].

(*v*) [25]* * * * *

[1][(*vi*) Any special allowance or benefit, not being in the nature of an entertainment allowance or other perquisite within the meaning of sub-section (1) of section 7, specifically granted to meet expenses wholly and necessarily incurred in the performance of the duties of an office or employment of profit, to the extent to which such expenses are actually incurred for that purpose]

[2][(*vi-a*) Subject to such conditions as the Central Government may prescribe,—

(*a*) passage moneys or the value of any free or concessional passage received by or due to any person, not being a citizen of India, from his employer for himself, his wife and children, in connection with his proceeding on home leave out of India, and

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[20] Inserted by s 3, F Act, 1961, w e f 1-4-1961
[21] Inserted by s 4, Indian I T (Amendment) Act, 1939
[22] Substituted for "1897", *ibid*
[23] "Or any Provident Insurance Society to which the Provident Insurance Societies Act, 1912, is or but for an exemption under that Act would be applicable" omitted by s 4, Indian I T (Amendment) Act, 1924
[24] Inserted by s 3, I T and E P T (Amendment) Act, 1947
[25] Omitted by s 4, Indian I T (Amendment) Act, 1939
[1] Substituted by s 4, F Act, 1955, w e f 1-4-1955
[2] Inserted by s 4, F Act, 1955, w e f 1-4-1955, and substituted by s 3, F Act, 1958, w. e f. 1-4-1958

(*b*) the value of any travel concession or assistance received by or due to any person, being a citizen of India, from his employer for himself, his wife and children, in connection with his proceeding on leave to his home-town or village in India]

(*vii*) Any receipts [3][not being capital gains chargeable according to the provisions of section 12B and] not being receipts arising from business or the exercise of a profession, vocation or occupation, which are of a casual and non-recurring nature, or are not by way of addition to the remuneration of an employee.

(*viii*) Agricultural income

[4][(*ix*) Any income received by trustees on behalf of a recognised provident fund as defined in clause (*a*) of section 58A]

[5][(*x*) Any income received—

(*a*) by the Ruler of an Indian State as his privy purse under article 291 of the Constitution,

(*b*) by any ambassador, high commissioner, envoy, minister, *chargé d'affaires*, commissioner, counsellor or the secretary, adviser or attaché of an embassy, high commission, legation or commission of a foreign State as remuneration from such State for service in such capacity,

(*c*) by a *consul de carrière*, whether called a consul-general, consul, vice-consul, consular agent, pro-consul or by any other name, of a foreign State as remuneration from such State for service in such capacity,

(*d*) by a trade commissioner or other official representative in India of the Government of a foreign State (not holding office as such in an honorary capacity) as his remuneration, if the remuneration of the corresponding officials, if any, of the Government resident for similar purposes in the country concerned enjoys a similar exemption in that country,

(*e*) by a member of the staff of any of the officials referred to in clause (*b*) or clause (*c*) or clause (*d*) as his remuneration, if the member—

(*i*) is a subject of the country represented,

(*ii*) is not engaged in any business, profession, vocation or employment in India otherwise than as a member of such staff, and further, where the individual is a member of the staff of any official referred to in clause ( ) if the country represented has made corresponding provisions for similar exemptions in the case of members of the staff of the corresponding officials of the Government.]

[6][(*x-a*) Any allowances or perquisites paid or allowed as such without the taxable territories by the Government to a citizen of India for rendering service without the taxable territories]

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[3] Inserted by s 3, I T and E P T (Amendment) Act, 1947

[4] Inserted by s 2, Indian I T (Provident Funds Relief) Act, 1929.

[5] Inserted by s 3, Indian I T (Amendment) Act, 1941; and substituted by s 3, F Act, 1959, w e f 1-4-1959 for making deductions of income-tax and super-tax under s 18(2), and w e f 1-4-1960 for other purposes

[6] Inserted by s 3, F Act, 1959, w e f 1-4-1959 for making deductions of income-tax and super-tax under s 18(2), and w e f 1-4-1960 for other purposes

[7][(*xi*) With effect from the 2nd day of September, 1939, the income chargeable under the head "Salaries" of a Nepalese member of the Nepalese Military Force serving with His Majesty's Forces, [8][or, after the commencement of the Constitution, with the Armed Forces of the Union] or of any member of an Indian State Force so serving, and any other income accruing or arising without [9][the taxable territories] which is received in or brought into [9][the taxable territories] by any such member while the Force to which he belongs is serving with His Majesty's Forces [8][or, after the commencement of the Constitution, with the Armed Forces of the Union]]

[10][(*xi-a*) Any income chargeable under the heads "Interest on securities", "Income from property" and "Income from other sources" of a registered Trade Union within the meaning of the Indian Trade Unions Act, 1926 (XVI of 1926), formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen]

[11][(*xii*) Any income chargeable under the head "Income from property" in respect of a building the erection of which is begun and completed between the 1st day of April, 1946, and the 31st day of March, [12][1956] (both dates inclusive), for a period of two years from the date of such completion]

[13][(*xiii*) Any income of a scientific research association which is, for the time being, approved for the purposes of clause (*xiii*) of sub-section (2) of section 10 where the income is applied solely to the purposes of that association and accrues or arises after the 31st day of March, 1949]

[14][(*xiv*) Any income received by an employee of a foreign enterprise, not engaged in any trade or business in the taxable territories, as remuneration for services rendered by him during the course of his stay in the taxable territories, where such stay does not exceed in the aggregate a period of ninety days in any year and where such remuneration is not liable to be deducted from the income, profits and gains chargeable under this Act

[15][(*xiv-a*) Any income chargeable under the head "Salaries" received by or due to any person, not being a citizen of India, during the financial year in which he arrived in India and the financial year next following as remuneration for services rendered by him as a technician in the employment of Government or of a local authority or of any corporation set up under any special law or in any business carried on in India, in any case where such person was not resident therein in any of the four financial years immediately preceding the financial year in which he arrived in India

Provided that where, during the financial year of arrival and the year next following, such person had been in India for a period of, or for

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7 Inserted by s 3, Indian I T (Amendment) Act, 1941
8 Inserted by Adaptation of Laws Order, 1950
9 Substituted for "British India", *ibid*
10 Inserted by s 3, F Act, 1958, w e f 1-4-1958
11 Inserted by s 2, Indian I T (Amendment) Act, 1946
12 "1952" substituted for "1950" by s 3, F Act, 1950, w e f 1-4-1950, "1954" for "1952" by s 3, Indian I T (Amendment) Act, 1953, w e f 1-4-1952, and "1956" for "1954" by s 3, F Act, 1954, w e f 1-4-1954
13 Inserted by s 9, Taxation Laws (Extension to Merged States and Amendment) Act, 1949
14 Cls (*xiv*), (*xv*), (*xvi*), (*xvii*), (*xviii*) and (*xix*) retrospectively inserted by s 3, Indian I T (Amendment) Act, 1953, and also apply to all completed assessments
15 Inserted by s 4, F Act, 1955, w e f 1-4-1955, and substituted by s 4, F Act, 1956, w e f 1-4-1955

periods amounting in all to, three hundred and sixty-five days or more, only so much of the income aforesaid as is received by or due to him for a period of three hundred and sixty-five days in all commencing from the date of his arrival shall not be included in his total income

[16][Provided further that in the case of a person referred to in this clause whose contract of service was approved by the Central Government before the commencement of his service, this clause shall have effect as if for the words "during the financial year in which he arrived in India and the financial year next following", the words "during the thirty-six months commencing from the date of his arrival in India" had been substituted and as if the proviso immediately preceding had been omitted

Provided also that where a person referred to in the proviso immediately preceding continues to remain in employment in India after the expiry of the thirty-six months commencing from the date of his arrival in India, the employer may, notwithstanding anything contained in section 200 of the Companies Act, 1956 (I of 1956), pay to the Central Government the tax on the income of such person chargeable under the head "Salaries" for a period not exceeding twenty-four months following the expiry of the said thirty-six months and if the tax is so paid it shall not be included in his total income of the said period]

[17][*Explanation* —"Technician" means a person having specialised knowledge and experience in constructional or manufacturing operations, or in mining or in the generation or distribution of electricity or any other form of power, who is employed in India in a capacity in which such specialised knowledge and experience are actually utilised]]

[18][(*xiv-b*) Any income chargeable under the head "Salaries" received by or due to a person, not resident in the taxable territories and not being a citizen of India, as remuneration for services rendered in connection with his employment on a foreign ship where his total stay in the taxable territories does not exceed in the aggregate a period of ninety days in the previous year]

(*xv*) Any income received as remuneration, whether directly or indirectly, from the Government of a foreign State by any person who is assigned to duties in India in connection with any co-operative technical assistance programmes and projects in accordance with an agreement entered into by the Central Government and the Government of that foreign State (the terms whereof provide for the exemption given by this clause) and any other income of such person or of the members of his family accompanying him to India, which accrues or arises without the taxable territories, and is not deemed to accrue or arise in the taxable territories, upon which such person or the members of his family are required to pay any income or social security tax to the Government of that foreign State

(*xvi*) Any income from interest on, or from premium on the redemption of, any bonds issued by the Central Government under a loan agreement between the Central Government and the International Bank for

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[16] Substituted for the original proviso by s 3, F Act, 1961, w e f 1-4-1961
[17] Substituted by s 3, F Act, 1958 The amendment does not apply to the persons mentioned in s 13, F Act, 1958
[18] Inserted by s 2, Taxation Laws (Amendment) Act, 1960, w e f 1-4-1960

Reconstruction and Development [19][or under a loan agreement between the Central Government and the Development Loan Fund of the United States of America], or by any industrial undertaking or financial corporation in India under a loan agreement with the said Bank [19][or Fund, as the case may be,] which is guaranteed by the Central Government, except where the holder of such bond is a person resident in the taxable territories

[20][(*xvii*) Monthly payments on the 15 Year Annuity Certificates issued by or under the authority of the Central Government or such other annuity certificates issued by or under the authority of that Government as that Government may, by notification in the Official Gazette, specify in this behalf, to the extent to which the amounts of the certificates do not exceed in each case the maximum amount which is permitted to be invested therein

(*xvii-a*) Interest on Treasury Savings Deposit Certificates, Post Office Cash Certificates, Post Office National Savings Certificates, National Plan Certificates, 12 Year National Plan Savings Certificates and such other certificates issued by the Central Government as that Government may, by notification in the Official Gazette, specify in this behalf, and interest on deposits in Post Office Savings Banks, to the extent to which the amounts of such certificates or deposits do not exceed in each case the maximum amount which is permitted to be invested or deposited therein]

[21][(*xvii-b*) Interest payable—

(i) by Government or a local authority on moneys borrowed by it from sources outside India from any person not resident in India or from any institution established outside India,

(ii) by an industrial undertaking in India on moneys borrowed by it under a loan agreement entered into with any such financial institution in a foreign country as may be approved in this behalf by the Central Government by general or special order,

(iii) by an industrial undertaking in India on any moneys borrowed or debt incurred by it in a foreign country in respect of the purchase outside India of capital plant and machinery in any case where the loan or debt is approved by the Central Government, having regard to its terms generally and in particular, to the terms of its repayment]

(*xviii*) Interest on securities held by the Issue Department of the Central Bank of Ceylon constituted under the Ceylon Monetary Law Act, 1949

(*xix*) Any daily allowance received by any person, by reason of his membership of the Dominion Legislature or of the Constituent Assembly or of Parliament or of any Provincial or State Legislature or of any Committee thereof]

[22][(*xx*) Any income from interest payable without the taxable territories on a loan issued for public subscription before the 1st day of April, 1938, where such interest is payable to a person not resident in the taxable

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[19] Inserted by s 3, F Act, 1961, w e f 1-4-1961

[20] Substituted for cl (*xvii*) by s 4, F Act, 1955, w e f 1-4-1955, and further substituted by s 2, Taxation Laws (Amendment) Act, 1960, w e f 1-4-1960

[21] Inserted by s 3, F (No 2) Act, 1957, w e f 1-4-1957 for making deduction of income-tax under sub-s (2) or (2B) of s 18, and w e f 1-4-1958 for other purposes

[22] Inserted by s 3, F Act, 1954, w e f 1-4-1954

territories, but such income shall not be excepted from being included in his total world income notwithstanding anything in clause (*15*) of section 2]

[23][(*xxi*) Any income of a member of a Scheduled Tribe, as defined in clause (*25*) of article 366 of the Constitution, residing in any area specified in Part A or Part B of the table appended to paragraph 20 of the Sixth Schedule to the Constitution [24][or in the *Union* territories of Manipur and Tripura], provided that such member is not in the service of Government.

(*xxii*) Any payment made, whether in cash or in kind, by the Central Government or any State Government in pursuance of gallantry awards instituted or approved by the Central Government]

In this sub-section "charitable purpose" includes relief of the poor, education, medical relief and the advancement of any other object of general public utility, [25][*but nothing contained in clause (i)* [1]* * or clause (*ii*) shall operate to exempt from the provisions of this Act that part of the [2][income from property held under a trust or other legal obligation for private religious purposes] which does not enure for the benefit of the public]

[3][**4A. Residence in [4][the taxable territories]**—For the purposes of this Act—

(*a*) any individual is resident in [4][the taxable territories] in any year if he—

(*i*) is in [4][the taxable territories] in that year for a period amounting in all to one hundred and eighty-two days or more, or

(*ii*) maintains or has maintained for him a dwelling place in [4][the taxable territories] for a period or periods amounting in all to one hundred and eighty-two days or more in that year, and is in [4][the taxable territories] for any time in that year; or

(*iii*) having within the four years preceding that year been in [4][the taxable territories] for a period of or for periods amounting in all to three hundred and sixty-five days or more, is in [4][the taxable territories] for any time in that year otherwise than on an occasional or casual visit, [5][or]

[5][(*iv*) is in [4][the taxable territories] for any time in that year and the Income-tax Officer is satisfied that such individual having arrived in [4][the taxable territories] during that year is likely to remain in [4][the taxable territories] for not less than three years from the date of his arrival,]

(*b*) a Hindu undivided family, firm or other association of persons is resident in [4][the taxable territories] unless the control and management of its affairs is situated wholly without [4][the taxable territories], and

[6][(*c*) a company is resident in the taxable territories in any year, if—

(*i*) it is an Indian company, or

(*ii*) during that year the control and management of its affairs is situated wholly in the taxable territories.]

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[23] Retrospectively inserted by s 4, F Act, 1955 The amendment also applies to all completed assessments (S 20, F Act, 1955)

[24] Retrospectively inserted by s 3, F Act, 1958

[25] Inserted by s 4 Indian I T (Amendment) Act, 1939

[1] "Clause (*ia*)" omitted by s 3, Indian I T (Amendment) Act, 1953, w e f 1-4-1952

[2] Substituted for "income of a private religious trust", *ibid*, w e f 1-4-1952

[3] Ss 4A and 4B inserted by s 5, Indian I T (Amendment) Act, 1939

[4] Substituted for "British India" by Adaptation of Laws Order, 1950

[5] Inserted by s 4, Indian I T (Amendment) Act, 1941, w e f 1-4-1942

[6] Substituted by s 4, F Act, 1958, w e f 1-4-1958

4B. Ordinary residence.—For the purposes of this Act—

(*a*) an individual is "not ordinarily resident" in [7][the taxable territories] in any year if he has not been resident in [7][the taxable territories] in nine out of the ten years preceding that year or if he has not during the seven years preceding that year been in [7][the taxable territories] for a period of, or for periods amounting in all to, more than two years,

(*b*) a Hindu undivided family is deemed to be ordinarily resident in [7][the taxable territories] if its manager is ordinarily resident in [7][the taxable territories],

(*c*) a company, firm or other association of persons is ordinarily resident in [7][the taxable territories] if it is resident in [7][the taxable territories]]

CHAPTER II

INCOME-TAX AUTHORITIES

[8][**5. Income-tax authorities.**—(1) There shall be the following classes of income-tax authorities for the purposes of this Act, namely —

(*a*) the Central Board of Revenue,

[9][(*aa*) Directors of Inspection,]

(*b*) Commissioners of Income-tax,

(*c*) Assistant Commissioners of Income-tax who may be either Appellate Assistant Commissioners of Income-tax or Inspecting Assistant Commissioners of Income-tax,

(*d*) Income-tax Officers,

[9][(*e*) Inspectors of Income-tax]

[9][(1A) The Central Government may appoint as many Directors of Inspection as it thinks fit, and Directors of Inspection shall, subject to the control of the Central Board of Revenue, perform such functions of any other Income-tax authority as may be assigned to them by the Central Government]

[10][(2) The Central Government may appoint as many Commissioners of Income-tax as it thinks fit and they shall perform their functions in respect of such areas or of such persons or classes of persons or of such incomes or classes of incomes or of such cases or classes of cases as the Central Board of Revenue may direct, and where such directions have assigned to two or more Commissioners of Income-tax the same area or the same persons or classes of persons or the same income or classes of incomes or the same cases or classes of cases, they shall have concurrent jurisdiction subject to any orders which the Central Board of Revenue may make for the distribution and allocation of work to be performed

(3) The Central Government may appoint as many Appellate or Inspecting Assistant Commissioners of Income-tax and Income-tax Officers of Class I service as it thinks fit, and the Commissioner may, subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, appoint as many Income-tax Officers of Class II service and Inspectors of Income-tax as may, from time to time, be sanctioned by the Central Government

(3A) Subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, an Income-tax authority

[7] Substituted for "British India" by Adaptation of Laws Order, 1950
[8] Substituted by s 6, Indian I T (Amendment) Act, 1939
[9] Inserted by s 4, Indian I T (Amendment) Act, 1953, w e f 1-4-1952
[10] Substituted, *ibid*, w e f 1-4-1952

may appoint such executive or ministerial staff as may be necessary to assist it in the execution of its functions]

(4) Appellate Assistant Commissioners of Income-tax shall be under the direct control of the Central Board of Revenue and shall perform their functions in respect of such persons or classes of persons [11][or of such incomes or classes of income or] in respect of such areas as the Central Board of Revenue may direct, [12][and, where such directions have assigned to two or more Appellate Assistant Commissioners of Income-tax, the same persons or classes of persons or the same incomes or classes of income or the same area] in accordance with any orders which the Central Board of Revenue may make for the distribution and allocation of the work to be performed

(5) Inspecting Assistant Commissioners of Income-tax and Income-tax Officers shall perform their functions in respect of such persons or classes of persons [13][or of such incomes or classes of income or] in respect of such areas as the Commissioner of Income-tax may direct, [14][and, where such directions have assigned to two or more Inspecting Assistant Commissioners of Income-tax or Income-tax Officers, the same persons or classes of persons or the same incomes or classes of income or the same area] in accordance with any orders which the Commissioner of Income-tax may make for the distribution and allocation of the work to be performed The Commissioner may, [15]* * by general or special order in writing, direct that the powers conferred on the Income-tax Officer and the Appellate Assistant Commissioner by or under this Act shall, in respect of any specified case or class of cases, be exercised by the Inspecting Assistant Commissioner and the Commissioner, respectively, and, for the purposes of any case in respect of which such order applies, references in this Act or in any rules made hereunder to the Income-tax Officer and the Appellate Assistant Commissioner shall be deemed to be references to the Inspecting Assistant Commissioner and the Commissioner, respectively

[16][(5A) Inspectors of Income-tax shall perform such functions in the execution of this Act as are assigned to them by the Income-tax Officer or other Income-tax authority under whom they are appointed to work, and shall be subordinate to such Officer or authority]

(6) The Central Board of Revenue may, by notification in the Official Gazette, empower Commissioners of Income-tax, Appellate or Inspecting Assistant Commissioners of Income-tax and Income-tax Officers to perform such functions in respect of such classes of persons or such classes of income [17][or such area] as may be specified in the notification, and thereupon the functions so specified shall cease [18]* * to be performed in respect of the specified classes of persons or classes of income [19][or area] by the other authorities appointed under sub-sections (2) and (3)

[20][(7) For the purposes of this Act,—

(i) Inspecting Assistant Commissioners shall be subordinate to the Director of Inspection and to the Commissioner of Income-tax within whose jurisdiction they perform their functions;

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11 Substituted for "and of such incomes or classes of income and" by s 3, Indian I T (Amendment) Act, 1940, w e f 1-4-1939

12 Substituted for "and, where two or more Appellate Assistant Commissioners have been appointed for the same area", ibid, w e f 1-4-1939

13 Substituted for "and of such incomes or classes of income and", ibid, w e f 1-4-1939

14 Substituted for "and, where two or more Inspecting Assistant Commissioners of Income-tax or Income-tax Officers have been appointed for the same area", ibid, w e f 1-4-1939

15 "With the previous approval of the Central Board of Revenue" omitted by s 4, Indian I T (Amendment) Act, 1953, w e f 1-4-1952

16 Inserted, ibid, w e f 1-4-1952

17 Substituted for "and for such area" by s 3, Indian I T (Amendment) Act, 1940, w e f 1-4-1939

18 "Within the specified area" omitted, ibid, w e f 1-4-1939

19 Inserted, ibid, w e f 1-4-1939

20 Substituted by s 4, Indian I T (Amendment) Act, 1953, w e f 1-4-1952

(ii) Income-tax Officers shall be subordinate to the Director of Inspection, the Commissioner of Income-tax and the Inspecting Assistant Commissioner of Income-tax within whose jurisdiction they perform their functions]

[21][(7A) The Commissioner of Income-tax may transfer any case from one Income-tax Officer subordinate to him to another, and the Central Board of Revenue may transfer any case from any one Income-tax Officer to another Such transfer may be made at any stage of the proceedings, and shall not render necessary the reissue of any notice already issued by the Income-tax Officer from whom the case is transferred.]

[22]* * * * *

[23][(7B) The Director of Inspection, the Commissioner or the Inspecting Assistant Commissioner, as the case may be, may issue such instructions as he thinks fit for the guidance of any Income-tax Officer subordinate to him in the matter of any assessment, and for the purposes of making any inquiry under this Act (which he is hereby empowered to do), the Director of Inspection, the Commissioner and the Inspecting Assistant Commissioner shall have all the powers that an Income-tax Officer has under this Act in relation to the making of inquiries

(7C) Whenever in respect of any proceeding under this Act an Income-tax authority ceases to exercise jurisdiction and is succeeded by another who has and exercises jurisdiction, the Income-tax authority so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor

Provided that the assessee concerned may demand that before the proceeding is so continued the previous proceeding or any part thereof be reopened or that before any order for assessment is passed against him he be reheard

Provided further that in computing the period of limitation for the purposes of sub-section (3) of section 34, the time taken in reopening the whole or any part of the proceeding or in giving an opportunity to the assessee to be reheard under the preceding proviso shall be excluded]

(8) All officers and persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Central Board of Revenue

Provided that no such orders, instructions or directions shall be given so as to interfere with the discretion of the Appellate Assistant Commissioner in the exercise of his appellate functions

[24][*Explanation* —In sub-sections (2), (5) and (7A), the word "case" in relation to any person whose name is specified in any order or direction issued in pursuance of any of the aforesaid sub-sections means all proceedings under this Act in respect of any year which may be pending on the date of such order or direction or which may have been completed on or before such date, and includes also all proceedings under this Act which may be commenced after the date of such order or direction in respect of any year]]

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21 Inserted by s 3, Indian I T (Amendment) Act, 1940

22 The Explanation retrospectively inserted by s 2, Indian I T (Amendment) Act, 1956, and omitted by s 3, Taxation Laws (Amendment) Act, 1960, w e f 1-4-1960

23 Inserted by s 4, Indian I T (Amendment) Act, 1953, w e f 1-4-1952

24 Retrospectively inserted by s 3, Taxation Laws (Amendment) Act, 1960

[25][CHAPTER II-A

APPELLATE TRIBUNAL]

[1][5A. **The Appellate Tribunal.**—(1) The Central Government shall appoint an Appellate Tribunal consisting of [2][as many persons as it thinks fit] to exercise the functions conferred on the Appellate Tribunal by this Act

(2) The Appellate Tribunal shall consist [3]* * of judicial members and accountant members as hereinafter defined

[4]* * * * *

(3) [5][A judicial member shall be a person who has for at least ten years either held a civil judicial post or been in practice as an advocate of a High Court, and an accountant member shall be a person who has for at least ten years been in the practice of accountancy as a chartered accountant under the Chartered Accountants Act, 1949 (XXXVIII of 1949), or as a registered accountant under any law formerly in force or partly as a registered accountant and partly as a chartered accountant.]

Provided that the Central Government may appoint as an accountant member of the Tribunal any person not possessing the qualifications required by this sub-section, if it is satisfied that he has qualifications and has had adequate experience of a character which render him suitable for appointment to the Tribunal

(4) The Central Government shall [6][ordinarily] appoint a judicial member of the Tribunal to be President thereof

(5) The powers and functions of the Appellate Tribunal may be exercised and discharged by Benches constituted from members of the Tribunal by the President of the Tribunal

[7][(6) Save as hereinafter provided a Bench shall consist of one judicial member and one accountant member

Provided that the President or any other member of the Tribunal specially authorised in this behalf by the Central Government may, sitting singly, dispose of any case which has been allotted to the Bench of which he is a member and which pertains to an assessee whose total income as computed by the Income-tax Officer in the case does not exceed Rs 15,000

Provided further that the President may, for the disposal of any particular case, constitute a special Bench consisting either of two judicial members and one accountant member or of one judicial member and two accountant members.]

(7) If the members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, they shall state the point or points on which they differ, and the case shall be referred by the President of the Tribunal for hearing on such point or points by one or more of the other members of the Tribunal, and such point or points shall be decided according to the opinion of the majority of the members of the Tribunal who have heard the case, including those who first heard it

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[25] Inserted by s 4, Indian I T (Amendment) Act, 1940
[1] Inserted by s 85, Indian I T (Amendment) Act, 1939
[2] Substituted for "not more than ten persons" by s 10, Taxation Laws (Extension to Merged States and Amendment) Act, 1949
[3] "Of an equal number" omitted, *ibid*
[4] The proviso omitted by s 5, Indian I T (Amendment) Act, 1953, w e f 1-4-1952
[5] Substituted, *ibid*, w e f 1-4-1952
[6] Inserted, *ibid*, w e f 1-4-1952
[7] Substituted by s 10, Taxation Laws (Extension to Merged States and Amendment) Act, 1949.

(8) Subject to the provisions of this Act, the Appellate Tribunal shall have power to regulate its own procedure, and the procedure of Benches of the Tribunal in all matters arising out of the discharge of its functions, including the [8][places] at which the Benches shall hold their sittings]

CHAPTER III

TAXABLE INCOME

6. Heads of income chargeable to income-tax.—Save as otherwise provided by this Act, the following heads of income, profits and gains, shall be chargeable to income-tax in the manner hereinafter appearing, namely —

(*i*) Salaries

(*ii*) Interest on securities

[9][(*iii*) Income from property

(*iv*) Profits and gains of business, profession or vocation

(*v*) Income from other sources]

[10][(*vi*) Capital gains]

[11][**7. Salaries.**—(1) The tax shall be payable by an assessee under the head "Salaries" in respect of any salary or wages, any annuity, pension or gratuity, and any fees, commissions, perquisites or profits in lieu of, or in addition to, any salary or wages, which are allowed to him by or are due to him, whether paid or not, from, or are paid by or on behalf of, the Government, a local authority, a company or any other public body or association, or any private employer, and for the purposes of this sub-section advances by way of loan or otherwise of income chargeable under this head shall be deemed to be salary due on the date when the advance is received

Provided that the tax shall not be payable in respect of any sum deducted from the salary payable by or on behalf of the Government to any individual, being a sum deducted in accordance with the conditions of his service, for the purpose of securing to him a deferred annuity or making provision for his wife or children provided that the sum so deducted shall not exceed [12][one-fifth] of the salary

Provided further that where tax is deductible at the source under section 18, the assessee shall not be called upon to pay the tax himself unless he has received the salary without such deduction

Explanation 1.—For the purposes of this section, "perquisite" includes— R

(*i*) the value of rent-free accommodation or the value of any concession in the matter of rent respecting any accommodation provided to the assessee by his employer, 24A

(*ii*) the value of any benefit or amenity granted or provided by a company free of cost or at concessional rate to an employee who is a director thereof or who is substantially interested in the company within the meaning of sub-clause (*iii*) of clause (*6C*) of section 2,

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[8] Substituted for "place" by s 4, Indian I T (Amendment) Act, 1940

[9] Substituted for the original cls (*iii*), (*iv*), (*v*) and (*vi*) by s 7, Indian I T (Amendment) Act, 1939

[10] Inserted by s 5, I T and E P T (Amendment) Act, 1947

[11] Substituted by s 5, F Act, 1955, w e f 1-4-1955 for making deduction of income-tax under sub-s (2) or (2B) of s 18, and w e f 1-4-1956 for other purposes

[12] Substituted for "one-sixth" by s 5, F Act, 1956, w e f 1-4-1956

(*iii*) the value of any benefit or amenity granted or provided to an assessee (not being an assessee to whom the provisions of clause (*ii*) apply) by his employer free of cost or at concessional rate in any case where the income of the assessee under the head "Salaries" exclusive of the value of all benefits or amenities not provided for by way of monetary payment exceeds eighteen thousand rupees,

(*iv*) any sum paid by the employer in respect of any obligation which but for such payment would have been payable by the assessee, an

(*v*) any sum payable by the employer, whether directly or [illegible]gh a fund to which the provisions of Chapters IX-A and IX-B do [illegible]ply, to effect an assurance on the life of the assessee or in respect of [illegible] contract for an annuity on the life of the assessee

Explanation 2.—For the purposes of this section, "profits in lieu of salary" includes,—

(*i*) the amount of any compensation due to or received by an assessee from his employer or former employer at or in connection with, the termination of his employment, whether solely as compensation for loss of employment or for any other consideration,

(*ii*) any payment due to or received by an assessee from an employer or former employer or from a provident or other fund, to the extent to which it does not consist of contributions by the assessee or interest on such contributions

Provided that nothing herein contained shall render liable to income-tax any payment of death-*cum*-retirement gratuity received after the 16th day of April, 1950, under the Revised Pension Rules of the Central Government or under any similar scheme of a State Government, [13][a local authority or a corporation established by a Central, State or Provincial Act] [14][or any payment of retiring gratuity received after the 1st day of June, 1953, under the New Pension Code applicable to the members of the Defence Services] or any payment from a provident fund to which the Provident Funds Act, 1925 (XIX of 1925), applies, or any payment from a recognised provident fund within the meaning of Chapter IX-A if such payment is exempted from payment of income-tax under the provisions of Chapter IX-A, or any payment from an approved superannuation fund within the meaning of Chapter IX-B made on the death of a beneficiary or in lieu of or in commutation of an annuity, or by way of refund of contributions on the death of a beneficiary or on his leaving the employment in connection with which the fund is established

(2) The income chargeable under this section shall be computed after making the following deductions, namely —

(*i*) any amount not exceeding five hundred rupees, expended by the assessee on the purchase of books and other publications necessary for the purpose of his duties,

[15][(*ii*) in respect of any allowance in the nature of an entertainment allowance specifically granted to the assessee by his employer—

(*a*) in the case of an assessee who is in receipt of a salary from the Government, a sum equal to one-fifth of his salary (exclusive of any special allowance, benefit or other perquisites) or five thousand rupees, whichever is less, and

(*b*) in the case of any other assessee, a sum equal to one-fifth of the salary (exclusive of any special allowance, benefit or other perquisites) or

[13] Retrospectively inserted by s 5, F Act, 1958
[14] Retrospectively inserted by s 4, F Act, 1961
[15] Substituted by s 5, F Act, 1958, w e f 1-4-1958

seven thousand five hundred rupees, whichever is less, except in any case where the assessee was not in receipt of such entertainment allowance regularly from his present employer before the year beginning on the first day of April, 1955,]

[16][(ii-a) in respect of any conveyance owned by the assessee and used by him for the purposes of his employment, such sum as the Income-tax Officer may estimate in respect of such use as representing the expenditure incurred by the assessee in its maintenance and as representing its normal wear and tear

Provided that this clause shall not apply in any case where the assessee is in receipt of a conveyance allowance, whether as such or as part of his salary,]

(iii) any amount actually expended by the assessee, which he, by the conditions of his service, is required to spend out of his remuneration (exclusive of the allowance referred to in sub-clause (ii)), wholly, necessarily and exclusively in the performance of his duties]

8. Interest on securities.—The tax shall be payable by an assessee under the head "Interest on securities" in respect of the interest receivable by him on any security of the [17][Central Government] or of a [18][State] Government, or on debentures or other securities for money issued by or on behalf of a local authority or a company

[19][Provided that no income-tax shall be payable under this section by the assessee [20][in respect of any reasonable sum expended by him for the purpose of realizing such interest]] [21][or in respect of any interest payable on money borrowed for the purpose of investment in the securities by the assessee except interest chargeable under this Act which is payable without [22][the taxable territories], not being interest on a loan issued for public subscription before the 1st day of April, 1938, unless in respect of interest which is so chargeable tax has been paid or deducted under section 18, or unless there is a person in [22][the taxable territories] who may be appointed an agent under section 43 in respect of such interest]

Provided [19][further] that no income-tax shall be payable on the interest receivable on any security of the [17][Central Government] issued or declared to be income-tax free

Provided further that the income-tax payable on the interest receivable on any security of a [18][State] Government issued income-tax free shall be payable by the [18][State] Government

[23][*Explanation* —In the case of a banking company,—

(a) the amount which bears to the aggregate of its expenses as are admissible under sub-section (2) of section 10, other than under clauses (iii), (vi), (vi-a), (vi-b), (vii), (viii), (xi), (xii), (xiii) and (xiv) thereof, the same proportion as the gross receipts from interest on securities (inclusive of tax deducted at source) chargeable to tax under this section bears to the gross receipts from all sources which are included in the profit and loss account of the company, shall be deemed to be the sum reasonably expended by it for the purposes of realizing

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[16] Inserted by s 5, F Act, 1956, w e f 1-4-1956
[17] Substituted for "Government of India" by Government of India (Adaptation of Indian Laws) Order, 1937
[18] Substituted for "Provincial" by Adaptation of Laws Order, 1950
[19] Inserted by s 3, Indian I T (Second Amendment) Act, 1933
[20] Substituted for "in respect of any reasonable sum deducted by a banker from such interest by way of commission or paid to any other person by way of remuneration for realizing such interest on behalf of the assessee" by s 6, F Act, 1956, w e f 1-4-1956
[21] Inserted by s 9, Indian I T (Amendment) Act, 1939
[22] Substituted for "British India" by Adaptation of Laws Order, 1950
[23] Inserted by s 6, F Act, 1956, w e f 1-4-1956

such interest, and the amount for which allowance is admissible under sub-section (2) of section 10 shall be reduced correspondingly, and

(*b*) money borrowed shall include moneys received by way of deposits, and that amount which bears to the amount of interest payable on moneys borrowed the same proportion as the gross receipts from interest on securities (inclusive of tax deducted at source) chargeable to tax under this section bear to the gross receipts from all sources which are included in the profit and loss account of the company, shall be deemed to be interest payable on money borrowed for the purpose of investment in the securities by the assessee, and the amount of such interest for which allowance is due under sub-section (2) of section 10 shall be reduced correspondingly.]

9. Property—(1) The tax shall be payable by an assessee [24][under the head "Income from property"] in respect of the bona fide annual value of property consisting of any buildings or lands appurtenant thereto of which he is the owner, other than such portions of such property as he may occupy for the purposes of [25][any business, profession or vocation carried on by him the profits of which are assessable to tax], subject to the following allowances, namely:—

(*i*) where the property is in the occupation of the owner, or where it is let to a tenant and the owner has undertaken to bear the cost of repairs, a sum equal to one-sixth of such value;

(*ii*) where the property is in the occupation of a tenant who has undertaken to bear the cost of repairs, the difference between such value and the rent paid by the tenant up to but not exceeding one-sixth of such value;

[1][Provided that for the purposes of making any assessment for the year ending on the 31st day of March, 1952 in respect of the property situated in an area affected by the Assam earthquake of 1950, the allowance on account of repairs referred to in clauses (i) and (ii) shall be increased up to a maximum of one-half of the annual value thereof or the amount of expenditure proved to have been actually incurred for repairs, whichever is the less;]

(*iii*) the amount of any annual premium paid to insure the property against risk of damage or destruction;

[2][(*iv*) where the property is subject to a mortgage or other capital charge, the amount of any interest on such mortgage or charge; where the property is subject to an annual charge not being a capital charge, the amount of such charge; where the property is subject to a ground rent, the amount of such ground rent; and where the property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable on such capital:

Provided that no allowance shall be made in respect of any interest or annual charge payable without [3][the taxable territories] and chargeable under this Act, not being interest on a loan issued for public subscription before the 1st day of April, 1938, except interest or a charge on which tax has been paid or from which tax has been deducted under section 18 or in respect of which there is an agent for the payee in [3][the taxable territories] who may be assessed under section 43;]

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24 Substituted for "under the head 'Property'" by s. 10, Indian I.T. (Amendment) Act, 1939

25 Substituted for "his business", *ibid*

1 Inserted by s. 7, Indian I.T. (Amendment) Act, 1953, and also applies to completed assessments for the year ending 31-3-1952

2 Substituted by s. 10, Indian I.T. (Amendment) Act, 1939

3 Substituted for "British India" by Adaptation of Laws Order, 1950

(v) any sums paid on account of land revenue in respect of the property,

(vi) in respect of collection charges, a sum not exceeding the prescribed maximum, R 7

[4][(vii) in respect of vacancies, that part of [5][the annual value] which is proportional to the period during which the property is wholly unoccupied or, where the property is let out in parts, that portion of [5][the annual value] appropriate to any vacant part, which is proportional to the period during which such part is wholly unoccupied]

[6]* * * * *

[7][*Explanation* —For the purposes of clause (iv) of this sub-section, the expression "annual charge" does not include any tax in respect of property or income from property levied by a local authority or a State Government or the Central Government]

[8][(2) For the purposes of this section, the annual value of any property shall be deemed to be the sum for which the property might reasonably be expected to let from year to year

[9][Provided that, where the property is in the occupation of the owner for the purposes of his own residence, the annual value thereof shall first be determined in the same manner as if the property had been let to a tenant and the amount so determined shall be reduced by one-half of it or eighteen hundred rupees, whichever is less, so however that where the sum so reduced exceeds ten per cent of the total income of the owner, the annual value of the property shall be deemed to be ten per cent of such total income]

[10][Provided further that where the property referred to in the preceding proviso consists of one residential house only and it cannot actually be occupied by the owner by reason of the fact that owing to his employment, business, profession or vocation carried on at any other place, he has to reside at that other place in a building not belonging to him and the residential house is not actually let and no other benefit therefrom is derived by the owner, the income of such property under this section shall, if the property was not occupied during the whole of the previous year be taken to be nil, and if it was occupied for a part of the previous year be computed proportionately, so however that the income in respect of such property shall in no case be a loss]

Provided further that where the property is in the occupation of a tenant and the taxes levied by any local authority in respect of the property are, under the law authorising such levy, payable wholly by the owner or partly by the owner and partly by the tenant—

[11][(a) in the case of a property the construction of which was completed before the 1st day of April, 1950, the total amount of such taxes, and in the case of any other property, one-half of the total amount of such taxes, shall, notwithstanding anything contained in such law, be deemed to be the tenant's liability for such taxes, and]

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[4] Substituted by s 10, Indian I T (Amendment) Act, 1939

[5] Substituted for "the net annual value, after deducting the foregoing allowances" by s 5, Indian I T (Amendment) Act, 1940

[6] The proviso omitted by s 10, Indian I T (Amendment) Act, 1939

[7] Retrospectively inserted by s 2, Indian I T (Amendment) Act, 1950, subject to savings prescribed by s 3 of the Amendment Act regarding certain cases decided by the Supreme Court The amendment also applies to certain completed assessments

[8] Substituted by s 5, *ibid*, w e f 1-4-1951

[9] Substituted by s 7, Indian I T (Amendment) Act, 1953, w e f 1-4-1952, and further substituted by s 7, F Act, 1955, w e f 1-4-1955

[10] Inserted by s 3, F Act, 1953, w e f 1-4-1953

[11] Substituted by s 4, F Act, 1960, w e f 1-4-1960

(b) in determining the annual value of the property with reference to the rent payable by the tenant, a deduction shall be made equal to the part, if any, of the tenant's liability which is borne by the owner]

[12][Provided further that in respect of a building the erection of which is begun and completed after the 1st day of April, 1961, the annual value for a period of three years from the date of such completion shall be reduced by a sum equal to the aggregate of—

(a) in respect of any residential unit (comprised in the building) whose annual value does not exceed six hundred rupees, the amount thereof, and

(b) in respect of any residential unit (comprised in the building) whose annual value exceeds six hundred rupees, an amount of six hundred rupees,

so, however, that the income in respect of any residential unit shall in no case be a loss

Explanation —Where a residential unit is in the occupation of the owner for the purposes of his own residence, and the annual value thereof is computed in accordance with the first proviso, such computation shall be made as if the fourth proviso had been omitted]

[13][(3) Where property is owned by two or more persons and their respective shares are definite and ascertainable, such persons shall not in respect of such property be assessed as an association of persons, but the share of each such person in the income from the property as computed in accordance with this section shall be included in his total income]

[14][(4) For the purposes of this section—

(a) the holder of an impartible estate shall be deemed to be the individual owner of all the properties comprised in the estate,

(b) a member of a co-operative society to whom a building built by the society is allotted or leased under a house-building scheme of the society shall be deemed to be the owner of that building,

[15][(c) taxes levied by a local authority in respect of any property shall be deemed to include service taxes levied by the local authority in respect of the property]]

10 Business.—(1) The tax shall be payable by an assessee under the head [16]["Profits and gains of business, profession or vocation"] in respect of the profits or gains of any [16][business, profession or vocation] carried on by him

(2) Such profits or gains shall be computed after making the following allowances, namely —

(i) any rent paid for the premises in which such [16][business, profession or vocation] is carried on, provided that when any substantial part of the premises is used as a dwelling-house by the assessee, the allowance under this clause shall be such sum as the Income-tax Officer may determine having regard to the [17][proportional annual value of the part] so used,

(ii) in respect of repairs, where the assessee is the tenant only of the premises, and has undertaken to bear the cost of such repairs, the amount paid on account thereof, provided that, if any substantial part of the premises is used by the assessee as a dwelling-house, a proportional part only of such amount shall be allowed,

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[12] Inserted by s 5, F Act, 1961, w e f 1-4-1961
[13] Inserted by s 10, Indian I T (Amendment) Act, 1939
[14] Inserted by s 4, I T and B P T (Amendment) Act, 1948, w e f 30-3-1948, and substituted by s 7, F Act, 1955, w e f 1-4-1955
[15] Retrospectively inserted by s 6, F Act, 1958
[16] Substituted for "business" by s 11, Indian I T (Amendment) Act, 1939
[17] Substituted for "proportional part", *ibid.*

(iii) in respect of capital borrowed for the purposes of the [18][business, profession or vocation], [19]* * the amount of the interest paid

[20][Provided that no allowance shall be made under this clause in any case for any interest chargeable under this Act which is payable without [21][the taxable territories], not being interest on a loan issued for public subscription before the 1st day of April, 1938, except interest on which tax has been paid or from which tax has been deducted under section 18 or in respect of which there is an agent in [21][the taxable territories] who may be assessed under section 43 or, in the case of a firm, for any interest paid to a partner of the firm,]

Explanation—Recurring subscriptions paid periodically by shareholders or subscribers in such Mutual Benefit Societies as may be prescribed, shall be deemed to be capital borrowed within the meaning of this clause,

(iv) in respect of insurance against risk of damage or destruction of buildings, machinery, plant, furniture, stocks or stores used for the purposes of the [18][business, profession or vocation], the amount of any premium paid,

(v) in respect of current repairs to such buildings, machinery, plant or furniture, the amount paid on account thereof,

(vi) in respect of depreciation of such buildings, machinery, plant or furniture R
being the property of the assessee, a sum equivalent, [22][where the assets 8
are ships other than ships ordinarily plying on inland waters,] to such percentage on the original cost thereof to the assessee as may in any case or class of cases be prescribed [22][and in any other case, to such percentage on the written down value thereof as may in any case or class of cases be prescribed],

[23][and where the buildings have been newly erected, or the machinery or plant being new, [24][not being machinery or plant entitled to the development rebate under clause (*vi-b*),] has been installed, after the 31st day of March, 1945, [25][and before the 1st day of April, 1956,] a further sum (which shall however not be deductible in determining the written down value for the purposes of this clause) in respect of the year of erection or installation equivalent,—

(*a*) in the case of buildings the erection of which is begun and completed between the 1st day of April, 1946, and the 31st day of March, [1][1956] (both dates inclusive), to fifteen per cent of the cost thereof to the assessee,

(*b*) in the case of other buildings, to ten per cent of the cost thereof to the assessee,

(*c*) in the case of machinery or plant, to twenty per cent of the cost thereof to the assessee,]

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[18] Substituted for "business" by s 11, Indian I T (Amendment) Act, 1939

[19] "Where the payment of interest thereon is not in any way dependent on the earning of profits" omitted, *ibid*

[20] Inserted, *ibid*

[21] Substituted for "British India" by Adaptation of Laws Order, 1950

[22] Inserted by s 11, Indian I T (Amendment) Act, 1939, as amended by s 2, I T Law Amendment Act, 1940

[23] Inserted by s 3, Indian I T (Amendment) Act, 1946

[24] Inserted by s 8, F Act, 1955, w e f 1-4-1955

[25] Inserted by s 7, F Act, 1956, w e f 1-4-1956

[1] "1952" substituted for "1950" by s 3, F Act, 1950, w e f 1-4-1950, "1954" for "1952" by s 8, Indian I T (Amendment) Act, 1953, w e f 1-4-1952, and "1956" for "1954" by s 3, F Act, 1954, w e f 1-4-1954

(*b*) in determining the annual value of the property with reference to the rent payable by the tenant, a deduction shall be made equal to the part, if any, of the tenant's liability which is borne by the owner]

[12][Provided further that in respect of a building the erection of which is begun and completed after the 1st day of April, 1961, the annual value for a period of three years from the date of such completion shall be reduced by a sum equal to the aggregate of—

(*a*) in respect of any residential unit (comprised in the building) whose annual value does not exceed six hundred rupees, the amount thereof, and

(*b*) in respect of any residential unit (comprised in the building) whose annual value exceeds six hundred rupees, an amount of six hundred rupees,

so, however, that the income in respect of any residential unit shall in no case be a loss

Explanation —Where a residential unit is in the occupation of the owner for the purposes of his own residence, and the annual value thereof is computed in accordance with the first proviso, such computation shall be made as if the fourth proviso had been omitted]

[13][(3) Where property is owned by two or more persons and their respective shares are definite and ascertainable, such persons shall not in respect of such property be assessed as an association of persons, but the share of each such person in the income from the property as computed in accordance with this section shall be included in his total income]

[14][(4) For the purposes of this section—

(*a*) the holder of an impartible estate shall be deemed to be the individual owner of all the properties comprised in the estate,

(*b*) a member of a co-operative society to whom a building built by the society is allotted or leased under a house-building scheme of the society shall be deemed to be the owner of that building,

[15][(*c*) taxes levied by a local authority in respect of any property shall be deemed to include service taxes levied by the local authority in respect of the property]]

10. Business.—(1) The tax shall be payable by an assessee under the head [16]["Profits and gains of business, profession or vocation"] in respect of the profits or gains of any [16][business, profession or vocation] carried on by him

(2) Such profits or gains shall be computed after making the following allowances, namely —

(*i*) any rent paid for the premises in which such [16][business, profession or vocation] is carried on, provided that when any substantial part of the premises is used as a dwelling-house by the assessee, the allowance under this clause shall be such sum as the Income-tax Officer may determine having regard to the [17][proportional annual value of the part] so used,

(*ii*) in respect of repairs, where the assessee is the tenant only of the premises, and has undertaken to bear the cost of such repairs, the amount paid on account thereof, provided that, if any substantial part of the premises is used by the assessee as a dwelling-house, a proportional part only of such amount shall be allowed,

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[12] Inserted by s 5, F Act, 1961, w e f 1-4-1961
[13] Inserted by s 10, Indian I T. (Amendment) Act, 1939
[14] Inserted by s 4, I T and B P T (Amendment) Act, 1948, w e f 30-3-1948, and substituted by s 7, F Act, 1955, w e f 1-4-1955
[15] Retrospectively inserted by s 6, F Act, 1958
[16] Substituted for "business" by s 11, Indian I T (Amendment) Act, 1939
[17] Substituted for "proportional part", *ibid*

(*iii*) in respect of capital borrowed for the purposes of the [18][business, profession or vocation], [19]* * the amount of the interest paid

[20][Provided that no allowance shall be made under this clause in any case for any interest chargeable under this Act which is payable without [21][the taxable territories], not being interest on a loan issued for public subscription before the 1st day of April, 1938, except interest on which tax has been paid or from which tax has been deducted under section 18 or in respect of which there is an agent in [21][the taxable territories] who may be assessed under section 43 or, in the case of a firm, for any interest paid to a partner of the firm,]

Explanation—Recurring subscriptions paid periodically by shareholders or subscribers in such Mutual Benefit Societies as may be prescribed, shall be deemed to be capital borrowed within the meaning of this clause,

(*iv*) in respect of insurance against risk of damage or destruction of buildings, machinery, plant, furniture, stocks or stores used for the purposes of the [18][business, profession or vocation], the amount of any premium paid,

(*v*) in respect of current repairs to such buildings, machinery, plant or furniture, the amount paid on account thereof,

(*vi*) in respect of depreciation of such buildings, machinery, plant or furniture being the property of the assessee, a sum equivalent, [22][where the assets are ships other than ships ordinarily plying on inland waters,] to such percentage on the original cost thereof to the assessee as may in any case or class of cases be prescribed [22][and in any other case, to such percentage on the written down value thereof as may in any case or class of cases be prescribed], R 8

[23][and where the buildings have been newly erected, or the machinery or plant being new, [24][not being machinery or plant entitled to the development rebate under clause (*vi-b*),] has been installed, after the 31st day of March, 1945, [25][and before the 1st day of April, 1956,] a further sum (which shall however not be deductible in determining the written down value for the purposes of this clause) in respect of the year of erection or installation equivalent,—

(*a*) in the case of buildings the erection of which is begun and completed between the 1st day of April, 1946, and the 31st day of March, [1][1956] (both dates inclusive), to fifteen per cent of the cost thereof to the assessee,

(*b*) in the case of other buildings, to ten per cent of the cost thereof to the assessee,

(*c*) in the case of machinery or plant, to twenty per cent of the cost thereof to the assessee,]

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[18] Substituted for "business" by s 11, Indian I T (Amendment) Act, 1939

[19] "Where the payment of interest thereon is not in any way dependent on the earning of profits" omitted, *ibid*

[20] Inserted, *ibid*

[21] Substituted for "British India" by Adaptation of Laws Order, 1950

[22] Inserted by s 11, Indian I T (Amendment) Act, 1939, as amended by s 2, I T Law Amendment Act, 1940

[23] Inserted by s 3, Indian I T (Amendment) Act, 1946

[24] Inserted by s 8, F Act, 1955, w e f 1-4-1955

[25] Inserted by s 7, F Act, 1956, w e f 1-4-1956

[1] "1952" substituted for "1950" by s 3, F Act, 1950, w e f 1-4-1950, "1954" for "1952" by s 8, Indian I T (Amendment) Act, 1953, w e f 1-4-1952, and "1956" for "1954" by s 3, F Act, 1954, w e f 1-4-1954

[2][and where the buildings have been newly erected after the 31st day of March, 1961, such buildings being used solely for the purpose of residence of persons employed in the business and drawing remuneration not exceeding two hundred rupees per mensem or such buildings being used solely or mainly for the welfare of such persons as hospitals, creches, schools, canteens, libraries, recreational centres, shelters, rest rooms and lunch rooms, a sum (which shall not be deductible in determining the written down value for the purposes of this clause) equal to twenty per cent of the actual cost of the building to the assessee in respect of the previous year of erection of the building]

Provided that—

(*a*) the prescribed particulars have been duly furnished,

(*b*) where, [3][in the assessment of the assessee or if the assessee is a registered firm, in the assessment of its partners,] full effect cannot be given to any such allowance in any year [4][not being a year which ended prior to the 1st day of April, 1939,] owing to there being no profits or gains chargeable for that year, or owing to the profits or gains chargeable being less than the allowance, [5][then, subject to the provisions of [6][clause (*b*)] of the proviso to sub-section (2) of section 24], the allowance or part of the allowance to which effect has not been given, as the case may be, shall be added to the amount of the allowance for depreciation for the following year and deemed to be part of that allowance, or if there is no such allowance for that year, be deemed to be the allowance for that year, and so on for succeeding years, and

(*c*) [7][the aggregate of all allowances in respect of depreciation made under this clause and clause (*vi-a*) or under any Act repealed hereby,] or under the Indian Income-tax Act, 1886 (II of 1886), shall, in no case, exceed the original cost to the assessee of the buildings, machinery, plant or furniture, as the case may be,

[8][(*vi-a*) in respect of depreciation of buildings newly erected, or of machinery or plant being new which has been installed, after the 31st day of March, 1948, a further sum (which shall be deductible in determining the written down value) equal to the amount admissible under clause (*vi*) (exclusive of the extra allowance for double or multiple shift working of the machinery or plant and the initial depreciation allowance admissible under that clause for the first year of erection of the building or the installation of the machinery or plant) [9][in not more than five successive assessments for the financial years next following the previous year in which such buildings are erected and such machinery and plant installed and falling within the period commencing on the 1st day of April, 1949, and ending on the 31st day of March, 1959],]

[10]* * * * *

[2] Inserted by s 6, F Act, 1961, w e f 1-4-1961
[3] Inserted by s 8, Indian I T (Amendment) Act, 1953, w e f 1-4-1952
[4] Inserted by s 11, Indian I T (Amendment) Act, 1939
[5] Inserted by s 6, Indian I T (Amendment) Act, 1941, w e f 1-4-1942
[6] Substituted for "clause (*a*)" by s 4, Repealing and Amending Act, 1947
[7] Substituted for "the aggregate of all such allowances made under this Act or any Act repealed hereby" by s 8, F Act, 1955, w e f 1-4-1955
[8] Inserted by s 11, Taxation Laws (Extension to Merged States and Amendment) Act, 1949
[9] Substituted for "in the assessments for each of the five years commencing on the 1st day of April, 1949, and ending with the 31st day of March, 1954", by s. 8, Indian I T (Amendment) Act, 1953, w e f 1-4-1952
[10] The proviso omitted by s 8, F Act, 1955, w e f 1-4-1955

[11][(vi-b) in respect of a new ship acquired or new machinery or plant installed after the 31st day of March, 1954, which is wholly used for the purposes of the business carried on by the assessee, a sum by way of development rebate in respect of the year of acquisition of the ship or of the installation of the machinery or plant, equivalent to,—

[12][(i) in the case of a ship acquired after the 31st day of December, 1957, forty per cent and in the case of a ship acquired before the 1st day of January, 1958, twenty-five per cent of the actual cost of the ship to the assessee, and

(ii) in the case of machinery or plant installed before the 1st day of April, 1961, twenty-five per cent. and in the case of machinery or plant installed after the 31st day of March, 1961, twenty per cent of the actual cost of the machinery or plant to the assessee,]

Explanation 1—In the case of a ship acquired or machinery or plant installed after the 31st day of December, 1957, where the total income of the assessee for the year of acquisition or installation (the total income for this purpose being computed without making any allowance under this clause) is nil or is less than the full amount of the development rebate calculated at the rate applicable thereto under this clause,—

(i) the sum to be allowed by way of development rebate for that year under this clause shall be only such amount as is sufficient to reduce the said total income to nil, and

(ii) the amount of the development rebate, to the extent to which it has not been allowed as aforesaid, shall be carried forward to the following year, and the development rebate to be allowed for the following year shall be such amount as is sufficient to reduce the total income of the assessee for that year, computed in the manner aforesaid, to nil, and the balance of the development rebate, if any, still outstanding shall be carried forward to the following year and so on, so however that no portion of the development rebate shall be carried forward for more than eight years,

Explanation 2—Where in any year development rebate is to be allowed in accordance with the provisions of *Explanation 1* in respect of ships acquired or machinery or plant installed in more than one year, and the total income of the assessee for that year (the total income for this purpose being computed without making any allowance under this clause) is less than the aggregate of the amounts due to be allowed in respect of the assets aforesaid for that year, the following procedure shall be followed, namely —

(i) the allowance under paragraph (ii) of *Explanation 1* shall be made before any allowance under paragraph (i) of that *Explanation* is made, and

(ii) where an allowance has to be made under paragraph (ii) of *Explanation 1* in respect of amounts carried forward from more than one year, the amount carried forward from an earlier year shall be allowed before any amount carried forward from a later year

[11] Inserted by s 8, F Act, 1955, w e f 1-4-1955, and substituted by s 7, F Act, 1958, w e f 1-4-1958.

[12] Substituted by s 6, F Act, 1961, w e f 1-4-1961

Provided that no allowance under this clause shall be made unless—

(*a*) the particulars prescribed for the purpose of clause (*vi*) have been furnished by the assessee in respect of the ship or machinery or plant, and

(*b*) except where the assessee is a company being a licensee within the meaning of the Electricity (Supply) Act, 1948 (LIV of 1948), or where the ship has been acquired or the machinery or plant has been installed before the 1st day of January, 1958, an amount equal to seventy-five per cent of the development rebate to be actually allowed is debited to the profit and loss account of the relevant previous year and credited to a reserve account to be utilised by him during a period of ten years next following for the purposes of the business of the undertaking, except—

(i) for distribution by way of dividends or profits, or

(ii) for remittance outside India as profits or for the creation of any asset outside India,

and if any such ship, machinery or plant is sold or otherwise transferred by the assessee to any person other than the Government [13][or for any consideration not connected with any amalgamation or succession referred to in clause (*vi-c*)] at any time before the expiry of ten years from the end of the year in which it was acquired or installed, any allowance made under this clause shall be deemed to have been wrongly allowed for the purposes of this Act]

[14][Provided further that no allowance under this clause shall be made in respect of any machinery or plant which consists of office appliances or road transport vehicles,]

[13][(*vi-c*) (i) where in a scheme of amalgamation, a company (hereinafter in this sub-clause referred to as the predecessor) sells or otherwise transfers to the company formed in pursuance of the predecessor's amalgamation with that company (hereinafter in this sub-clause referred to as the successor) any ship, machinery or plant in respect of which development rebate has been allowed to the predecessor under clause (*vi-b*),—

(*1*) the successor shall continue to fulfil the conditions mentioned in the first proviso to clause (*vi-b*) in respect of the reserve created by the predecessor and in respect of the period within which such ship, machinery or plant shall not be sold or otherwise transferred and in default of any of these conditions, the provisions of sub-section (11) of section 35 shall apply to the successor as it would have applied to the predecessor had it committed the default,

(*2*) the balance of development rebate, if any, still outstanding to the predecessor in respect of such ship, machinery or plant shall be allowed to the successor in accordance with *Explanations 1* and *2* of clause (*vi-b*), so, however, that the total period for which the balance of development rebate shall be carried forward in the assessments of the predecessor and the successor shall not exceed the period of eight years specified in *Explanation 1* to clause (*vi-b*) and the successor shall be treated as the assessee in respect of such ship, machinery or plant for the purposes of clause (*vi-b*) and this sub-clause,

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[13] Inserted by s 6, F Act, 1961, w e f 1-4-1961
[14] Inserted by s. 4, Taxation Laws (Amendment) Act, 1960, w e f 1-4-1960

Explanation —For the purposes of this sub-clause, "amalgamation" means the merger of two companies (each of which is hereinafter in this *Explanation* referred to as the amalgamating company) to form one company (hereinafter in this *Explanation* referred to as the amalgamated company) in such manner that—

(*a*) all the property of the amalgamating companies immediately before the amalgamation becomes the property of the amalgamated company by virtue of the amalgamation,

(*b*) all the liabilities of the amalgamating companies immediately before the amalgamation become the liabilities of the amalgamated company by virtue of the amalgamation, and

(*c*) all the shareholders of the amalgamating companies immediately before the amalgamation become shareholders of the amalgamated company by virtue of the amalgamation,

otherwise than as a result of the acquisition of property of one company by another company pursuant to the purchase of such property by the other company or as a result of the distribution of such property to the other company after the winding up of the company,

(ii) where a firm is succeeded to by a private company, as defined in the Companies Act, 1956 (I of 1956), in the business carried on by it as a result of which the firm sells or otherwise transfers to the private company any ship, machinery or plant, the provisions of sub-clause (i) of this clause shall, so far as may be, apply to the firm and the company,

Explanation —The provisions of this sub-clause shall apply only where—

(*a*) all the property of the firm immediately before the succession becomes the property of the company,

(*b*) all the liabilities of the firm immediately before the succession become the liabilities of the company, and

(*c*) all the partners of the firm immediately before the succession become shareholders of the company,]

[15][(*vii*) in respect of any such building, machinery or plant which has been sold or discarded or demolished or destroyed, the amount by which the written down value thereof exceeds the amount for which the building, machinery or plant, as the case may be, is actually sold or its scrap value

Provided that such amount is actually written off in the books of the assessee

Provided further that where the amount for which any such building, machinery or plant is sold, [16][whether during the continuance of the business or after the cessation thereof], exceeds the written down value, so much of the excess as does not exceed the difference between the original cost and the written down value shall be deemed to be profits of the previous year in which the sale took place

Provided further that where any insurance, salvage or compensation moneys are received in respect of any such building, machinery or plant which has been discarded or demolished or destroyed, and the amount of such moneys does not exceed the written down value, the amount allowable under this clause shall be the amount, if any, by which the

[15] Substituted by s 11, Indian I T (Amendment) Act, 1939, and further substituted by s 3, Indian I T (Amendment) Act, 1946

[16] Inserted by s 11, Taxation Laws (Extension to Merged States and Amendment) Act, 1949

difference between the written down value and the scrap value exceeds the amount of such moneys

Provided further that where any insurance, salvage or compensation moneys are received in respect of any such building, machinery or plant as aforesaid, and the amount of such moneys exceeds the difference between the written down value and the scrap value no amount shall be allowable under this clause and so much of the excess as does not exceed the difference between the original cost and the written down value less the scrap value shall be deemed to be profits of the previous year in which such moneys were received

Provided further that for the purposes of this clause, the original cost of a building, the written down value of which is determined in accordance with the first proviso to sub-section (5), shall be deemed to be the written down value so determined as at the date of its being brought into use for the purposes of the business, profession or vocation,]

[17][(*viii*) in respect of animals which have been used for the purposes of the [18][business, profession or vocation] otherwise than as stock-in-trade and have died or become permanently useless for such purposes, the difference between the original cost to the assessee of the animals and the amount, if any, realised in respect of the carcasses or animals,]

[19][(*ix*)] any sums paid on account of land-revenue, local rates or municipal taxes in respect of such part of the premises as is used for the purposes of the [18][business, profession or vocation],

[20][(*x*) any sum paid to an employee as bonus or commission for services rendered, where such sum would not have been payable to him as profits or dividend if it had not been paid as bonus or commission

Provided that the amount of the bonus or commission is of a reasonable amount with reference to—

(*a*) the pay of the employee and the conditions of his service,

(*b*) the profits of the [21][business, profession or vocation] for the year in question, and

(*c*) the general practice in similar [21][businesses, professions or vocations],]

[22][(*xi*) when the assessee's accounts in respect of any part of his business, profession or vocation are not kept on the cash basis, such sum, in respect of bad and doubtful debts, due to the assessee in respect of that part of his business, profession or vocation, and in the case of an assessee carrying on a banking or money-lending business, such sum in respect of loans made in the ordinary course of such business as the Income-tax Officer may estimate to be irrecoverable but not exceeding the amount actually written off as irrecoverable in the books of the assessee

Provided that if the amount ultimately recovered on any such debt or loan is greater than the difference between the whole debt or loan and the amount so allowed, the excess shall be deemed to be a profit of

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17 Inserted as cl (*vii-a*) by s 2, Indian I T (Amendment) Act, 1928, and renumbered "(*viii*)" by s 11, Indian I T (Amendment) Act, 1939

18 Substituted for "business" by s 11, Indian I T (Amendment) Act, 1939

19 Cl (*viii*) renumbered "(*ix*)", *ibid*

20 Inserted as cl (*viii-a*) by s 2, Indian I T (Third Amendment) Act, 1930, and renumbered "(*x*)" by s 11, Indian I T (Amendment) Act, 1939

21 Substituted for "business" by s 11, Indian I T (Amendment) Act, 1939

22 Inserted, *ibid*

the year in which it is recovered, and if less, the deficiency shall be deemed to be a business expense of that year,]

[23][(*xii*) any expenditure (not being in the nature of capital expenditure) laid out or expended on scientific research related to the business,

[24][(*xiii*) any sum paid to a scientific research association having as its object the undertaking of scientific research or to a university, college or other institution to be used for scientific research or to a university, college or other institution to be used for research in social science or statistical research related to the class of business carried on

Provided that such association, university, college or institution is for the time being approved for the purposes of this clause by the prescribed authority,] R 47

(*xiv*) in respect of any expenditure of a capital nature on scientific research related to the business, an allowance for each of the five consecutive previous years beginning with the year in which the expenditure was incurred, or where the expenditure was incurred prior to the commencement of the business, for each of the five consecutive previous years beginning with the year in which the business was commenced, equal to one-fifth of such expenditure

Provided that no allowance shall be made for any expenditure incurred more than three years before the commencement of the business

Provided further that—

(*a*) where an asset representing scientific research expenditure of a capital nature ceases to be used for scientific research related to such business—

(i) no allowance shall be made in respect of any previous year after the previous year in which the cessation takes place, and

(ii) if the aggregate of the amounts allowed under this clause added to the value of the asset immediately before the cessation is less than the said expenditure, there shall also be allowed in respect of the previous year in which the cessation takes place an additional deduction equal to the difference,

(*b*) where such asset is sold without having been used for other purposes, the sale proceeds shall be taken to be the value of the asset immediately before the cessation, and if an additional allowance or a greater additional allowance would have been made in respect of the previous year in which the cessation occurred on the basis of that value, an amount equal to the additional allowance which would have been made or, as the case may be, to the difference between the additional allowance which would have been made and the additional allowance which was made for that year shall be made in respect of the previous year in which the sale occurs,

(*c*) where the proceeds of the sale plus the total amount of the allowances made under this clause exceed the amount of the expenditure, the excess or the amount of the allowances so made, whichever is the less, shall be treated as a receipt of the business accruing at the time of the sale,

(*d*) where a deduction is allowed for any previous year under this clause in respect of expenditure represented wholly or partly by any asset,

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[23] Cls (*xii*), (*xiii*) and (*xiv*) inserted by s 3, Indian I T (Amendment) Act, 1946
[24] Substituted by s 5, F Act, 1960, w e f 1-4-1960

[4] * * * * *

[5][Provided that in the case of a company, no expenditure in the nature of entertainment expenditure shall be allowed which exceeds the aggregate amount computed as hereunder —

(i) on the first Rs 10,00,000 of the profits and gains of the business (computed before making any allowance under clause (*vi-b*) or in respect of entertainment expenditure)	at the rate of 1% or Rs 5,000 whichever is higher,
(ii) on the next Rs 40,00,000 of the profits and gains of the business (computed in the manner aforesaid)	at the rate of ¾%,
(iii) on the next Rs 1,20,00,000 of the profits and gains of the business (computed in the manner aforesaid)	at the rate of ½%,
(iv) on the balance of the profits and gains of the business (computed in the manner aforesaid)	nil]

[6][(2A) Where for the purpose of computing profits or gains under this section, an allowance or deduction has been made in the assessment for any year in respect of any loss, expenditure or trading liability incurred by the assessee and, subsequently during any previous year, the assessee has received, whether in cash or in any other manner whatsoever, any amount in respect of such loss or expenditure or has obtained some benefit in respect of such trading liability by way of remission or cessation thereof, the amount received by him or the value of the benefit accruing to him shall be deemed to be profits and gains of business, profession or vocation and to have accrued or arisen during that previous year]

[7][(2AA) For the purpose of computing the profits or gains of any business consisting of the prospecting for or extraction or production of mineral oils in relation to which the Central Government has entered into an agreement with any person for the association or participation in such business of the Central Government (which agreement has been laid on the Table of each House of Parliament), there shall be made in lieu of, or in addition to, the allowances admissible under sub-section (2), such allowances as are specified in the agreement in relation—

(*a*) to expenditure by way of infructuous or abortive exploration expenses in respect of any area surrendered prior to the beginning of commercial production by the assessee,

(*b*) after the beginning of commercial production, to expenditure incurred by the assessee, whether before or after such commercial production, in respect of drilling or exploration activities or services or in respect of physical assets used in that connection except assets on which allowance for depreciation is admissible under sub-section (2), and

(*c*) to the depletion of mineral oil in the mining area in respect of the assessment year relevant to the previous year in which commercial production is begun and for such succeeding year or years as may be specified in the agreement,

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[4] The proviso omitted by s 11, Indian I T (Amendment) Act, 1939
[5] Inserted by s 6, F Act, 1961, w e f 1-4-1961
[6] Inserted by s 8, F Act, 1955, w e f 1-4-1955
[7] Inserted by s 4, F Act, 1959, w e f 1-4-1959

and such allowances shall be computed and made in the manner specified in the agreement, the other provisions of this Act being deemed for this purpose to have been modified to the extent necessary to give effect to the terms of the agreement]

(2B) [8]* * * * *

(2C) [8]* * * * *

[9][(3) Where any building, machinery, plant or furniture in respect of which any allowance is due under clause (*iv*), clause (*v*), clause (*vi*) or clause (*vii*) of sub-section (2) is not wholly used for the purposes of the business, profession or vocation, the allowance shall be restricted to the fair proportional part of the amount which would be allowable if such building, machinery, plant or furniture was wholly so used

(4) Nothing in clause (*ix*) or [10][clause (*xv*)] of sub-section (2) shall be deemed to authorise the allowance of any sum paid on account of any cess, rate or tax levied on the profits or gains of any business, profession or vocation or assessed at a proportion of or otherwise on the basis of any such profits or gains, and nothing in [10][clause (*xv*)] of sub-section (2) shall be deemed to authorise—

(*a*) any allowance in respect of a payment which is chargeable under the head "Salaries" if it is payable without [11][the taxable territories] and tax has not been paid thereon nor deducted therefrom under section 18, or

(*b*) any allowance in respect of any payment by way of interest, salary, commission or remuneration made by a firm to any partner of the firm; or

(*c*) any allowance in respect of a payment to a provident or other fund established for the benefit of employees unless the employer has made effective arrangements to secure that tax shall be deducted at source from any payments made from the fund which are taxable under the head "Salaries"

[12][(4A) Nothing in sub-section (2) shall, in the computation of the profits and gains of a company, be deemed to authorise the making of—

(*a*) any allowance in respect of any expenditure which results directly or indirectly in the provision of any remuneration or benefit or amenity to a director or a person who has a substantial interest in the company within the meaning of sub-clause (*iii*) of clause (*6C*) of section 2, or

(*b*) any allowance in respect of any assets of the company used by any person referred to in clause (*a*) either wholly or partly for his own purposes or benefit,

if in the opinion of the Income-tax Officer any such allowance is excessive or unreasonable having regard to the legitimate business needs of the company and the benefit derived by or accruing to it therefrom

Explanation—The provisions of this sub-section shall apply notwithstanding that any amount disallowed under this sub-section is included in the total income of any person referred to in clause (*a*)]

[13][(4B) Nothing in clause (*vi*) or clause (*vi-a*) of sub-section (2) shall be deemed to authorise the allowance for any previous year of any sum in respect of any building, machinery, plant or furniture sold, discarded, demolished or destroyed in that year]

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[8] Inserted by s 3, F (No 3) Act, 1956, w e f 1-4-1957, substituted by s 4, F (No 2) Act, 1957, w e f 1-4-1957, and omitted by s 4, F Act, 1959, w e f 1-4-1959
[9] Sub-ss (3), (4), (5), (6) and (7) substituted for sub-s (3) by s 11, Indian I T (Amendment) Act, 1939
[10] Substituted for "clause (*xii*)" by s 4, Repealing and Amending Act, 1947
[11] Substituted for "British India" by Adaptation of Laws Order, 1950
[12] Inserted by s 7, F Act, 1956, w e f 1-4-1956
[13] Retrospectively inserted by s 7, F Act, 1958

(5) In sub-section (2), "paid" means actually paid or incurred according to the method of accounting upon the basis of which the profits or gains are computed under this section, "plant" includes vehicles, books, scientific apparatus and surgical equipment purchased for the purposes of the business, profession or vocation, and "written down value" means—

(a) in the case of assets acquired in the previous year, the actual cost to the assessee

[14][Provided that where, before the date of acquisition by the assessee, the assets were at any time used by any other person for the purposes of his business and the Income-tax Officer is satisfied that the main purpose of the transfer of such assets, directly or indirectly, to the assessee was the reduction of a liability to income-tax (by claiming depreciation with reference to an enhanced cost), the actual cost to the assessee shall be such an amount as the Income-tax Officer may, with the previous approval of the Inspecting Assistant Commissioner, determine having regard to all the circumstances of the case·]

[15][Provided further that where before the date of acquisition by the assessee, the assets, which belonged to the assessee and had been used by him for the purposes of his business, profession or vocation, had ceased to be his property by reason of transfer or otherwise, the actual cost to the assessee shall be the actual cost to him when he first acquired the assets less all depreciation actually allowed to him under the Act or under any Act repealed hereby or under executive orders issued when the Indian Income-tax Act, 1886 (II of 1886), was in force,]

[16][(b) in the case of assets acquired before the previous year the actual cost to the assessee less all depreciation actually allowed to him under this Act, or any Act repealed thereby, or under executive orders issued when the Indian Income-tax Act, 1886 (II of 1886), was in force]

[17][Provided that in the case of a building previously the property of the assessee and brought into use for the purposes of the business, profession or vocation after the 28th day of February, 1946, "written down value" means the actual cost to the assessee reduced by an amount equal to the depreciation calculated at the rate in force on that date that would have been allowable had the building been used for the aforesaid purposes since the date of its acquisition by the assessee and had the provisions of this Act relating to the allowance for depreciation been in force on and from the date of acquisition]

Provided [17][further] that where the provisions of the proviso to sub-section (2) of section 26 are applicable, the actual cost to the assessee referred to in [18][clauses (a) and (b)] shall be the actual cost to the person succeeded in the business, profession or vocation;

[18]* * * * *

[19][(c) in the case of assets acquired by the assessee by way of gift or inheritance, the "written down value" as in the case of the previous owner or the market value thereof whichever is the less

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14 Inserted by s 11, Taxation Laws (Extension to Merged States and Amendment) Act, 1949

15 Retrospectively inserted by s 8, F Act, 1955 The amendment also applies to all completed assessments (S 20, F Act, 1955)

16 Substituted for cls (b) and (c) by s 6, Indian I T (Amendment) Act, 1941, w e f 1-4-1942

17 Inserted by s 3, Indian I T (Amendment) Act, 1946

18 "Clauses (a) and (b)" substituted for "clauses (a), (b) and (c)", and the next proviso omitted, by s 6, Indian I T (Amendment) Act, 1941, w e f 1-4-1942

19 Inserted by s 8, Indian I T (Amendment) Act, 1953, w e f 1-4-1952

Explanation—For the purposes of this sub-section, the expression "actual cost" means the actual cost of the assets to the assessee reduced by that portion of the cost thereof, if any, as has been met directly or indirectly by Government or by any public or local authority, and any allowance in respect of any depreciation carried forward under clause (*b*) of the proviso to clause (*vi*) of sub-section (2) shall be deemed to be depreciation "actually allowed"]

[20][(5A) Any compensation or other payment due to or received by,—

(*a*) a managing agent of an Indian company at or in connection with the termination or modification of his managing agency agreement with the company,

(*b*) a manager of an Indian company at or in connection with the termination of his office or modification of the terms and conditions relating thereto;

(*c*) any person, by whatever name called, managing the whole or substantially the whole affairs of any other company in the taxable territories, at or in connection with the termination of his office or the modification of the terms and conditions relating thereto,

(*d*) any person, by whatever name called, holding an agency in the taxable territories for any part of the activities relating to the business of any other person, at or in connection with the termination of his agency or the modification of the terms and conditions relating thereto,

shall be deemed to be profits and gains of a business carried on by the managing agent, manager or other person, as the case may be, and shall be liable to tax accordingly, and the tax on such compensation or other payment shall, if the assessee so elects, be computed at the average of the rates of income-tax and super-tax applicable to his total income for the three years immediately preceding the previous year in which the compensation or other payment was due or received]

(6) A trade, professional or similar association performing specific services for its members for remuneration definitely related to those services shall be deemed for the purpose of this section to carry on business in respect of those services, and the profits and gains therefrom shall be liable to tax accordingly

(7) Notwithstanding anything to the contrary contained in sections 8, 9, 10, 12 or 18, the profits and gains of any business of insurance and the tax payable thereon shall be computed in accordance with the rules contained in the Schedule to this Act]

11. Professional earnings.—*Omitted by s 12 of the Indian Income-tax (Amendment) Act, 1939*

12. Other sources.—(1) The tax shall be payable by an assessee under the head [21]["Income from other sources"] in respect of income, profits and gains of every kind [22][which may be included in his total income] (if not included under any of the preceding heads)

[23][[24][(1A) Income from other sources shall include dividends, and any dividend declared by a company or distributed or paid by it within the meaning of sub-clause (*a*) or sub-clause (*b*) or sub-clause (*c*) or sub-clause (*d*) or sub-clause (*e*) of clause (6A) of section 2, shall be deemed to be the income of the previous year in which it is so declared, distributed or paid, as the case may be]

[20] Inserted by s 8, F Act, 1955, w e f 1-4-1955
[21] Substituted for "Other sources" by s 13, Indian I T (Amendment) Act, 1939.
[22] Substituted for "and from every source to which this Act applies", *ibid*
[23] Inserted by s 9, F Act, 1955, w e f 1-4-1955
[24] Substituted by s 5, F. Act, 1959, w e f 1-4-1960, subject to the special provisions in s. 3, F Act, 1960

(1B) Any payment by a company to a shareholder by way of advance or loan which would have been treated as a dividend within the meaning of clause (*e*) of sub-section (*6A*) of section 2 in any previous year relevant to any assessment year prior to the assessment year ending on the 31st day of March, 1956, had that clause been in force in that year, shall be treated as a dividend received by him in the previous year relevant to the assessment year ending on the 31st day of March, 1956, if such loan or advance remained outstanding on the first day of such previous year]

(2) Such income, profits and gains shall be computed after making allowance for any expenditure (not being in the nature of capital expenditure) incurred solely for the purpose of making or earning such income, profits or gains, [25][and further in the case of any income by way of dividend, for any reasonable sum paid by way of commission or remuneration to a banker or any other person realising such dividend on behalf of the assessee,] [1][provided that no allowance shall be made on account of—

(*a*) any personal expenses of the assessee, or

(*b*) any interest chargeable under this Act which is payable without [2][the taxable territories], not being interest on a loan issued for public subscription before the 1st day of April, 1938, or not being interest on which tax has been paid or from which tax has been deducted under section 18, or

(*c*) any payment which is chargeable under the head "Salaries", if it is payable without [2][the taxable territories] and tax has not been paid thereon nor deducted therefrom under section 18]

[3][(3) Where an assessee lets on hire machinery, plant or furniture belonging to him, he shall be entitled to allowances in accordance with the provisions of clauses (*iv*), (*v*), (*vi*) and (*vii*) of sub-section (2) of section 10]

[4][(4) Where an assessee lets on hire machinery, plant or furniture belonging to him and also buildings, and the letting of the buildings is inseparable from the letting of the said machinery, plant or furniture, he shall be entitled to allowances in accordance with the provisions of clauses (*iv*), [5][(*v*), (*vi*) and (*vii*)] of sub-section (2) of section 10 in respect of such buildings]

[6][(5) The provisions of [7][sub-sections (2A) and (4A)] of section 10 shall apply, so far as may be, in computing income, profits and gains of an assessee under this section as they apply in computing profits or gains of an assessee under that section]

[8][**12A. Managing agency commission.**—Where a managing agent of a company is liable under an agreement made for adequate consideration to share managing agency commission with a third party or parties, the said agent and the said party or parties shall file a declaration showing the proportion in which such commission is shared between them, and on proof to the satisfaction of the Income-tax Officer of the facts contained in such declaration such agent and each such party shall be chargeable only on the share to which such agent or party is entitled under the agreement]

[9][**12AA. Royalties or copyright fees for literary or artistic works.**—Where the time taken by the author of a literary or artistic work in the making thereof is—

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[25] Inserted by s 9, F Act, 1955, w e f 1-4-1955
[1] Substituted for "provided that no allowance shall be made on account of any personal expenses of the assessee" by s 13, Indian I T (Amendment) Act, 1939
[2] Substituted for "British India" by Adaptation of Laws Order, 1950
[3] Inserted by s 13, Indian I T (Amendment) Act, 1939
[4] Inserted by s 7, Indian I T (Amendment) Act, 1941, w e f 1-4-1942
[5] Substituted for "(*v*) and (*vi*)" by s 4, Indian I T (Amendment) Act, 1946
[6] Inserted by s 9, F Act, 1955, w e f 1-4-1955
[7] Substituted for "sub-section (2A)" by s 8, F Act, 1956, w e f 1-4-1956
[8] Inserted by s 14, Indian I T (Amendment) Act, 1939
[9] Inserted by s 3, F Act, 1953, w e f 1-4-1953

(a) more than twelve but less than twenty-four months, or

(b) more than twenty-four months,

the amount received or receivable by him during any previous year on account of any lump sum consideration for the assignment or grant of any of his interests in the copyright of that work or of royalties or copyright fees (whether receivable in lump sum or otherwise), in respect of that work, shall, if he so claims, be allocated for purposes of assessment as hereunder—

(i) in the case referred to in clause (a), one-half of the amount of such lump sum, royalties or fees as the income of the previous year in which the whole amount is received or receivable, and the other half as the income of the next succeeding previous year, and

(ii) in the case referred to in clause (b), one-third of the amount of such lump sum, royalties or fees as the income of the previous year in which the whole amount is received or receivable, and one-third of the said amount as the income of each of the two next succeeding previous years.

Explanation —For the purposes of this section, the expression "author" includes a joint author and the expression "lump sum" in regard to royalties or copyright fees includes an advance payment on account of such royalties or copyright fees which is not returnable]

[10][**12B. Capital gains.**—(1) The tax shall be payable by an assessee under the head "Capital gains" in respect of any profits or gains arising from the sale, exchange, relinquishment or transfer of a capital asset effected after the 31st day of March, 1956, and such profits and gains shall be deemed to be income of the previous year in which the sale, exchange, relinquishment or transfer took place

Provided that any distribution of capital assets on the total or partial partition of a Hindu undivided family or under a deed of gift, bequest or will shall not for the purposes of this section be treated as a sale, exchange, relinquishment or transfer of the capital assets

Provided further that the transfer of a capital asset by a company to a subsidiary company, the whole of the share capital of which is held by the parent company or by the nominees thereof, shall not be treated as a sale, exchange or transfer within the meaning of this section where the subsidiary company is resident in the taxable territories and is registered under the Indian Companies Act, 1956, so however that for the purposes of clause (vi) or clause (vii) of sub-section (2) of section 10, the cost or the written down value, as the case may be, of the transferred capital asset shall be taken to be the same as it would have been if the parent company had continued to hold the capital asset for the purposes of its business.

(2) The amount of a capital gain shall be computed after making the following deductions from the full value of the consideration for which the sale, exchange, relinquishment or transfer of the capital asset is made, namely,—

(i) expenditure incurred solely in connection with such sale, exchange, relinquishment or transfer,

(ii) the actual cost to the assessee of the capital asset, including any expenditure of a capital nature incurred and borne by him in making any additions or alterations thereto, but excluding any expenditure in respect of which any allowance is admissible under any provision of sections 8, 9, 10 and 12

[10] Inserted by s 6, Indian I T and E P T (Amendment) Act, 1947, and substituted by s 4, F. (No 3) Act, 1956, w e f 1-4-1957

Provided that where a person who acquires a capital asset from the assessee, whether by sale, exchange, relinquishment or transfer, is a person with whom the assessee is directly or indirectly connected, and the Income-tax Officer has reason to believe that the sale, exchange, relinquishment or transfer was effected with the object of avoidance or reduction of the liability of the assessee under this section, the full value of the consideration for which the sale, exchange, relinquishment or transfer is made shall, with the prior approval of the Inspecting Assistant Commissioner of Income-tax, be taken to be the fair market value of the capital asset on the date on which the sale, exchange, relinquishment or transfer took place

Provided further that where the capital asset is an asset in respect of which the assessee has obtained depreciation allowance in any year, the actual cost of the asset to the assessee shall be its written down value, as defined in section 10, increased or diminished, as the case may be, by any adjustment made under clause (*vii*) of sub-section (2) of that section

Provided further that where the capital asset became the property of the assessee, or of the previous owner where the cost of the capital asset to the previous owner is to be taken in accordance with sub-section (3), before the 1st day of January, 1954, he may, on proof of the fair market value thereof on the said date to the satisfaction of the Income-tax Officer, substitute for the actual cost such fair market value which shall be deemed to be the actual cost to him of the asset, and which shall be reduced by the amount of depreciation, if any, allowed to the assessee after the said date and increased or diminished, as the case may be, by any adjustment made under clause (*vii*) of sub-section (2) of section 10

Provided further that where the capital asset was on any previous occasion the subject of negotiations for its sale, exchange, relinquishment or transfer, any option or other money received and retained by the assessee in respect of such negotiations shall be deducted in computing the actual cost to him of such asset

(3) Where any capital asset became the property of the assessee by succession, inheritance or devolution or on any distribution of capital assets on the total or partial partition of a Hindu undivided family or on the dissolution of a firm or other association of persons or on the liquidation of a company or under a deed of gift, or transfer on irrevocable trust, its actual cost allowable to him for the purposes of this section shall be its actual cost to the previous owner thereof, and the provisions of sub-section (2) shall apply accordingly, and where the actual cost to the previous owner cannot be ascertained, the fair market value at the date on which the capital asset became the property of the previous owner shall be deemed to be the actual cost thereof

Provided that where the capital asset became the property of the assessee—

(*i*) before the 1st day of April, 1956, under a deed of gift or on the partition of a Hindu undivided family, the actual cost allowable to him shall be the fair market value of the capital asset on the date of the gift or the date of the partition, as the case may be, if such value is greater than the actual cost to the previous owner or the fair market value thereof on the 1st day of January, 1954, where the third proviso to sub-section (2) applies,

(*ii*) on or after the 1st day of April, 1956, on the partition of a Hindu undivided family, the cost allowable to him shall be the fair market value on the date of the partition

(4) Notwithstanding anything contained in sub-section (1)—

(*a*) where a capital gain arises from the sale, exchange or transfer of one or more capital assets being property the income of which is chargeable under section 9, and the full aggregate value of the consideration for

which the sale, exchange or transfer is made does not exceed the sum of twenty-five thousand rupees, the capital gain shall not be charged under this section and shall not also be included in the *total income* of the assessee

Provided that this clause shall not apply in any case where the aggregate of the fair market values of all capital assets, being property the income of which is chargeable under section 9, owned by the assessee immediately before the sale, exchange or transfer aforesaid is made, exceeds the sum of rupees fifty thousand,

(*b*) where a capital gain arises from the sale, exchange, relinquishment or transfer of a capital asset to which the provisions of clause (*a*) are not applicable, being property the income of which is chargeable under section 9, which in the two years immediately preceding the date on which the sale, exchange, relinquishment or transfer took place, was being used by the assessee or a parent of his mainly for the purposes of his own or the parent's own residence, and the assessee has within a period of one year before or after that date purchased a new property for the purposes of his own residence, then instead of the capital gain being charged to tax as income of the previous year in which the sale, exchange, relinquishment or transfer took place, it shall, if the assessee so elects in writing before the assessment is made, be dealt with in accordance with the following provisions of this clause, that is to say,—

(*i*) if the amount of the capital gain is greater than the cost of the new asset, the difference between the amount of the capital gain and the cost of the new asset shall be charged under this section as income of the previous year, or

(*ii*) if the amount of the capital gain is equal to or less than the cost of the new asset, the capital gain shall not be charged under this section]

13. Method of accounting.—Income, profits and gains shall be computed, for the purposes of sections 10 [11]* and 12, *in accordance with the method of accounting regularly employed by the assessee*

Provided that, if no method of accounting has been regularly employed, or if the method employed is such that, in the opinion of the Income-tax Officer, the income, profits and gains cannot properly be deduced therefrom, then the computation shall be made upon such basis and in such manner as the Income-tax Officer may determine.

14. Exemptions of a general nature.—(1) The tax shall not be payable by an assessee in respect of any sum which he receives as a member of a Hindu undivided family [12][where such sum has been paid out of the income of the family] [13][or in the case of an impartible estate where such sum has been paid out of the income of the holder of the estate belonging to the family].

[14][(2) The tax shall not be payable by an assessee—

(*a*) if a partner of an unregistered firm, in respect of any portion of his share in the profits and gains of the firm computed in the manner laid down in clause (*b*) of sub-section (1) of section 16 on which the tax has already been paid by the firm, or

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[11] "11" omitted by s 15, Indian I T (Amendment) Act, 1939
[12] Inserted by s 3, Indian I T (Amendment) Act, 1944
[13] Inserted by s 6, I T and B P T (Amendment) Act, 1948, w e f 30-3-1948
[14] Substituted by s 16, Indian I T (Amendment) Act, 1939

[15][(*aa*) if a partner of a registered firm, in respect of that portion of his share in the profits or gains of the firm as is equal to the difference between his share in the total income of the firm and his share in such total income excluding the income-tax, if any, payable by the firm, the shares in either case being computed in the manner laid down in clause (*b*) of sub-section (1) of section 16

Provided that in relation to super-tax the provisions of this clause shall have effect as if for the words "excluding the income-tax, if any, payable by the firm" the words "excluding the income-tax, if any, payable by the firm, at the rate of income-tax applicable to its total income, on the amount of its profits or gains from all sources other than from any business carried on by it" had been substituted,]

(*b*) if a member of an association of persons other than a Hindu undivided family, a company or a firm, in respect of any portion of the amount which he is entitled to receive from the association on which the tax has already been paid by the association [16]*

(*c*) [16]* * * * *]

[17][[18][(3) The tax shall not be payable by a co-operative society—

(*i*) in respect of its profits and gains of business carried on by it, if it is—

(*a*) a society engaged in carrying on the business of banking or providing credit facilities to its members, or

(*b*) a society engaged in a cottage industry, or

(*c*) a society engaged in the marketing of the agricultural produce of its members, or

(*d*) a society engaged in the purchase of agricultural implements, seeds, live-stock or other articles intended for agriculture for the purpose of supplying them to its members, or

(*e*) a society engaged in the processing without the aid of power of the agricultural produce of its members, or

(*f*) a primary society engaged in supplying milk raised by its members to a federal milk co-operative society

Provided that, in the case of a co-operative society which is also engaged in activities other than those mentioned in this clause, nothing contained herein shall apply to that part of its profits and gains as is attributable to such activities and as exceeds fifteen thousand rupees,

(*ii*) in respect of so much of its profits and gains of business carried on by it as does not exceed fifteen thousand rupees, if it is a co-operative society other than a co-operative society referred to in clause (*i*),

(*iii*) in respect of interest and dividends derived from its investments with any other co-operative society,

(*iv*) in respect of any income derived from the letting of godowns or warehouses for storage, processing or facilitating the marketing of commodities,

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[15] Inserted by s 9, F Act, 1956, w e f 1-4-1956

[16] "Or" and cl (*c*) omitted by s 2 and Sch, Taxation Laws (Extension to Jammu and Kashmir) Act, 1954

[17] Inserted by s 10, F Act, 1955, w e f 1-4-1955

[18] Substituted by s 6, F Act, 1960, w e f 1-4-1960

(v) in respect of any interest on securities chargeable under section 8 or any income from property chargeable under section 9, where the total income of the co-operative society does not exceed twenty thousand rupees and the society is not a housing society or an urban consumers' society or a society carrying on transport business or a society engaged in the performance of any manufacturing operations with the aid of power:

Provided that nothing contained in this sub-section shall apply to—

(i) the Sanikatta Salt Owners' Society,

(ii) a co-operative society carrying on insurance business in respect of the profits and gains of that business computed in accordance with rule 9 in the Schedule

Explanation.—For the purposes of this sub-section, an "urban consumers' co-operative society" means a society for the benefit of the consumers within the limits of a municipal corporation, municipality, municipal committee, notified area committee, town area or cantonment]

(4) The tax shall not be payable by an assessee, who is a member of a co-operative society, in respect of any dividends received by him from the society.

(5) The tax shall not be payable by an assessee, which is an authority constituted under any law for the time being in force for the marketing of commodities, in respect of any income derived from the letting of godowns or warehouses for storage, processing or facilitating the marketing of commodities]

15. Exemption in the case of life insurances.—(1) The tax shall not be payable [19][in respect of any sums paid by an assessee to effect an insurance on the life of the assessee or on the life of a wife or husband of the assessee or in respect of a contract for a deferred annuity on the life of the assessee or on the life of a wife or husband of the assessee], or as a contribution to any Provident Fund to which the Provident Funds Act, [20][1925 (XIX of 1925)], applies [21]* *

(2) Where the assessee is a Hindu undivided family, there shall be exempted under sub-section (1) any sums paid to effect an insurance on the life of any male member of the family or of the wife of any such member

[22][(2A) Nothing in sub-section (1) or sub-section (2) shall apply to so much of any premium or other payment made on a policy other than a contract for a deferred annuity as is in excess of ten per cent of the actual capital sum assured, and in calculating any such capital sum no account shall be taken of the value of any premiums agreed to be returned or of any benefit by way of bonus or otherwise which is to be or may be received either before or after death either by the person paying the premium or by any other person and which is not the sum actually assured.]

(3) The aggregate of any sums exempted under this section shall not, together with any sums exempted under the [23][first proviso] to sub-section (1) of section 7 [24][and any sums exempted under [25][section 58F]], [1][exceed in the case of an individual,

[19] Substituted by s 17, Indian I T (Amendment) Act, 1939
[20] Substituted for "1897", *ibid*
[21] "Or to any Provident Fund which complies with the provisions of the Provident Insurance Societies Act, 1912, or has been exempted from the provisions of that Act" omitted by s 5, Indian I T (Amendment) Act, 1924
[22] Inserted by s 4, Indian I T (Amendment) Act, 1944
[23] Substituted for "second proviso" by s 10, F Act, 1956, w e f 1-4-1956
[24] Inserted by s 3, Indian I T (Provident Funds Relief) Act, 1929
[25] Substituted for "sub-section (1) of section 58F" by s 5, F (No 2) Act, 1957, w e f 1-4-1957
[1] Substituted for "exceed in the case of an individual, one-sixth of the total income of the assessee or six thousand rupees, whichever is less, and in the case of a Hindu undivided family, one-sixth of the total income of the assessee or twelve thousand rupees, whichever is less" by s 11, F Act, 1955, w e f 1-4-1955

[2][one-fourth] of the total income of the assessee or eight thousand rupees, whichever is less, and in the case of a Hindu undivided family, [2][one-fourth] of the total income of the assessee or sixteen thousand rupees, whichever is less]

[3][**15A. Exemption of portion of earned income.**—The tax shall not be payable by an assessee in respect of such portion, if any, of the earned income included in his total income as is directed by the annual [4][Central Act] fixing the rate or rates of tax for any year to be deducted in making an assessment for that year, and for the purposes of determining the rates at which income-tax (but not super-tax) is payable by the assessee for that year his total income shall be deemed to be the total income reduced by the said portion]

[5][**15B. Exemption on account of donations for charitable purposes.**—[6][(1) The tax shall not be payable by an assessee in respect of any sums paid by him on or after the 1st day of April, 1953, as donations to any institution or fund to which this section applies [7][or in respect of any sums paid by him on or after the 1st day of April, 1960, as donations to the Government or to any local authority to be utilised for any charitable purpose as defined in sub-section (3) of section 4].

Provided that in the case of a company this exemption shall apply only in respect of income-tax and not in respect of super-tax payable by it

Provided further that this exemption shall not apply—

(*a*) if the aggregate of the sums so paid by the assessee is less than two hundred and fifty rupees,

(*b*) to any sums paid in excess of [8][seven and a half per cent of the assessee's total income] as reduced by any portion thereof exempt from tax under any other provisions of this Act, or [9][one hundred and fifty thousand rupees], whichever is less

(2) This section applies to any institution or fund established in the taxable territories for a charitable purpose—

(*i*) the income whereof is exempt under clause (*i*) of sub-section (3) of section 4,

(*ii*) which is not expressed to be for the benefit of any particular religious community,

(*iii*) which maintains regular accounts of its receipts and expenditure, and

(*iv*) which is either constituted as a public charitable trust or is registered under the Societies Registration Act, 1860 (XXI of 1860), or under section 26 of the Indian Companies Act, 1913 (VII of 1913), or is a university established by law or is any other educational institution recognised by Government or by a university or affiliated to any university, or

(*v*) which is an institution financed wholly or in part by the Government or a local authority.

Explanation—An institution or fund established for the benefit of scheduled castes, backward classes, scheduled tribes or of women and children shall not be

[2] Substituted for "one-fifth" by s 5, F (No 2) Act, 1957, w e f 1-4-1957
[3] Inserted by s 3, Indian I T (Amendment) Ordinance, 1945
[4] Substituted for "Act of the Central Legislature" by Adaptation of Laws Order, 1950
[5] Inserted by s 8, Indian F Act, 1948
[6] Substituted by s 3, F Act, 1953, w e f 1-4-1953
[7] Inserted by s 5, Taxation Laws (Amendment) Act, 1960, w e f 1-4-1960
[8] Substituted for "one-twentieth of the assessee's total income" by s 7, F Act, 1960, w e f. 1-4-1960
[9] Substituted for "one hundred thousand rupees", *ibid*, w e f 1-4-1960.

deemed to be an institution or fund expressed to be for the benefit of a religious community within the meaning of clause (*ii*)

(2A) For the removal of doubts, it is hereby declared that in respect of sums paid as donations on or after the 1st day of April, 1948, and before the 1st day of April, 1953, the provisions of sub-sections (1) and (2) shall apply as if the amendments made by clause (*c*) of section 3 of the Finance Act, 1953, had not been made]

(3) The amount by which the tax payable by an assessee is reduced on account of an exemption under this section shall not in any case exceed half the amount in respect of which the exemption is allowed under this section]

[10][**15C. Exemption from tax of newly established industrial undertakings.**—(1) Save as otherwise hereinafter provided, the tax shall not be payable by an assessee on so much of the profits or gains derived from any industrial undertaking [11][or hotel] to which this section applies as do not exceed six per cent per annum on the capital employed in the undertaking [11][or hotel], computed in accordance with such rules as may be made in this behalf by the Central Board of Revenue

(2) This section applies to any industrial undertaking which—

(*i*) is not formed by the splitting up, or the reconstruction, of business already in existence or by the transfer to a new business of building, machinery or plant [12][previously used in any other business];

(*ii*) has begun or begins to manufacture or produce articles in [13][any part of the taxable territories] at any time within a period of [14][eighteen] years from the 1st day of April, 1948, or such further period as the Central Government may, by notification in the Official Gazette, specify with reference to any particular industrial undertaking,

[15][(*iii*) employs ten or more workers in a manufacturing process carried on with the aid of power, or employs twenty or more workers in a manufacturing process carried on without the aid of power]

Provided that the Central Government may, by notification in the Official Gazette, direct that the exemption conferred by this section shall not apply to any particular industrial undertaking

[16][(2A) This section applies to any hotel which—

(*a*) starts functioning on or after the 1st day of April, 1961, and is not formed by the splitting up, or the reconstruction, of business already in existence or by the transfer to a new business of building, machinery or plant previously used in any other business,

(*b*) is owned and run by a company registered in the taxable territories with a paid-up capital of not less than five hundred thousand rupees;

(*c*) is run in premises which are owned by the company,

(*d*) has such number and types of guest rooms and provides such amenities as may be prescribed, having regard to the population and the tourist importance of the place in which the hotel is located, and

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[10] Inserted by s 13, Taxation Laws (Extension to Merged States and Amendment) Act, 1949.
[11] Inserted by s 7, F Act, 1961, w e f 1-4-1961.
[12] Retrospectively substituted for "used in a business which was being carried on before the 1st day of April, 1948", by s 6, F Act, 1959
[13] Substituted for "any Province in India" by Adaptation of Laws Order, 1950
[14] "Six" substituted for "three" by s 10, Indian I T (Amendment) Act, 1953, w. e f. 1-4-1952; "eight" for "six" by s 3, F Act, 1954, w e f 1-4-1954, "thirteen" for "eight" by s 11, F. Act, 1956, w e f 1-4-1956, and "eighteen" for "thirteen" by s 8, F. Act, 1960, w e f 1-4-1960
[15] Substituted by s 10, Indian I T (Amendment) Act, 1953, w e f 1-4-1952
[16] Inserted by s 7, F Act, 1961, w e f 1-4-1961

(e) is for the time being approved for the purposes of this sub-section by the Central Government]

(3) The profits or gains of an industrial undertaking [17][or a hotel] to which this section applies shall be computed in accordance with the provisions of section 10

(4) The tax shall not be payable by a shareholder in respect of so much of any dividend paid or deemed to be paid to him by an industrial undertaking [17][or a hotel] as is attributable to that part of the profits or gains on which the tax is not payable under this section

[17][*Explanation* —The amount of dividend in respect of which the tax is not payable under this sub-section shall be computed in accordance with such rules as may be made in this behalf by the Central Board of Revenue]

(5) Nothing in this section shall affect the application of section 23A in relation to the profits or gains of an industrial undertaking [17][or a hotel] to which this section applies [18]* *

[19][(6) The provisions of this section [20][shall, in relation to an industrial undertaking, apply] to the assessment for the financial year next following the previous year in which the assessee begins to manufacture or produce articles and for the four assessments immediately succeeding]

[21][Provided that where the assessee is a co-operative society, this sub-section shall have effect as if for the words "four assessments" the words "six assessments" had been substituted]

[22][(7) The provisions of this section shall, in relation to a hotel, apply to the assessment for the financial year next following the previous year in which the hotel starts functioning and for the four assessments immediately succeeding]]

16. Exemptions and exclusions in determining the total income.—[23][(1) In computing the total income of an assessee—

(a) any sums exempted under the [24][first] proviso to sub-section (1) of section 7, the second and third provisos to section 8, [25][sub-sections (2), (3), (4) and (5)] of [1][section 14, [2][section 15, [3][section 15B, section 15C and section 58F]]] shall be included, [4][and any sum exempted under section 15A shall also be included except for the purpose of determining the rates at which income-tax (but not super-tax) is payable by the assessee to whom the exemption is given],

[17] Inserted by s 7, F Act, 1961, w e f 1-4-1961

[18] "And for the purposes of that section, the expression 'assessable income' shall be deemed to include the profits or gains in respect of which the tax is not payable under this section" omitted by s 12, F Act, 1955, w e f 1-4-1955

[19] Substituted by s 10, Indian I T (Amendment) Act, 1953, w e f 1-4-1952

[20] Substituted for "shall apply" by s 7, F Act, 1961, w e f 1-4-1961

[21] Inserted by s 8, F Act, 1960, w e f 1-4-1960

[22] Inserted by s 7, F Act, 1961, w e f 1-4-1961

[23] Sub-ss (1) and (2) substituted by s 18, Indian I T (Amendment) Act, 1939

[24] Substituted for "second" by s 13, F Act, 1955, w e f 1-4-1955

[25] Substituted for "sub-section (2)", *ibid*, w e f 1-4-1955

[1] Substituted for "section 14 and section 15" by s 8, Indian F Act, 1948

[2] Substituted for "section 15 and section 15B" by s 14, Taxation Laws (Extension to Merged States and Amendment) Act, 1949

[3] Substituted for "section 15B and section 15C" by s 6, Taxation Laws (Amendment) Act, 1960, w e f 1-4-1957 for the purposes of sub-ss (2) and (2B) of s 18, and w e f 1-4-1958 for other purposes

[4] Inserted by s 4, Indian I T (Amendment) Ordinance, 1945

(*b*) when the assessee is a partner of a firm, then, whether the firm has made a profit or a loss, his share (whether a net profit or a net loss) shall be taken to be any salary, interest, commission or other remuneration payable to him by the firm in respect of the previous year increased or decreased respectively by his share in the balance of the profit or loss of the firm after the deduction of any interest, salary, commission or other remuneration payable to any partner in respect of the previous year:

Provided that if his share so computed is a loss, such loss may be set off or carried forward and set off in accordance with the provisions of section 24;

(*c*) all income arising to any person by virtue of a settlement or disposition whether revocable or not, and whether effected before or after the commencement of the Indian Income-tax (Amendment) Act, 1939 (VII of 1939), from assets remaining the property of the settlor or disponer, shall be deemed to be income of the settlor or disponer, and all income arising to any person by virtue of a revocable transfer of assets shall be deemed to be income of the transferor:

Provided that for the purposes of this clause a settlement, disposition or transfer shall be deemed to be revocable if it contains any provision for the retransfer directly or indirectly of the income or assets to the settlor, disponer or transferor, or in any way gives the settlor, disponer or transferor a right to reassume power directly or indirectly over the income or assets:

Provided further that the expression "settlement or disposition" shall for the purposes of this clause include any disposition, trust, covenant, agreement or arrangement, and the expression "settlor or disponer" in relation to a settlement or disposition shall include any person by whom the settlement or disposition was made:

Provided further that this clause shall not apply to any income arising to any person by virtue of a settlement or disposition which is not revocable for a period exceeding six years or during the lifetime of the person and from which income the settlor or disponer derives no direct or indirect benefit but that the settlor shall be liable to be assessed on the said income as and when the power to revoke arises to him.

(2) [5]* * * * *]

[6][(3) In computing the total income of any individual for the purpose of assessment, there shall be included—

(*a*) so much of the income of a wife or minor child of such individual as arises directly or indirectly—

(*i*) from the membership of the wife in a firm of which her husband is a partner;

(*ii*) from the admission of the minor to the benefits of partnership in a firm of which such individual is a partner;

(*iii*) from assets transferred directly or indirectly to the wife by the husband otherwise than for adequate consideration or in connection with an agreement to live apart; or

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[5] Omitted by s. 7, F. Act, 1959, w.e.f. 1-4-1960, subject to the special provisions in s. 3, F. Act, 1960.
[6] Inserted by s. 2, Indian I.T. (Amendment) Act, 1937.

(*iv*) from assets transferred directly or indirectly to the minor child, not being a married daughter, by such individual [7][otherwise than for adequate consideration], and

(*b*) so much of the income of any [8][person or association of persons] [9]* * as arises from assets transferred [10][otherwise than for adequate consideration to the person or association] by such individual [11][for the benefit of his wife or a minor child or both]]

[12][**17. Determination of tax payable in certain special cases.**—[13][(1) Where a person is not resident in the taxable territories and is not a company, the tax, including super-tax, payable by him or on his behalf on his total income shall be an amount equal to—

(*a*) the income-tax which would be payable on his total income at the maximum rate, *plus*

(*b*) either the super-tax which would be payable on his total income [14][at the rate of [15][nineteen per cent]], or the super-tax which would be payable on his total income if it were the total income of a person resident in the taxable territories, whichever is greater

Provided that any such person may, on the first occasion on which he is assessable for any year subsequent to the year ending on the 31st day of March, 1951, and before the 30th day of June in that year, or where the first occasion on which he is so assessable falls during the year ending on the 31st day of March, 1952, before such [16]date as the Central Board of Revenue may, by notification in the Official Gazette, specify in this behalf, by notice in writing to the Income-tax Officer declare (such declaration being final and being applicable to all assessments thereafter) that the tax, including super-tax, payable by him or on his behalf on his total income shall be determined with reference to his total world income, and thereupon such tax shall be an amount bearing to the total amount of tax including super-tax which would have been payable on his total world income had it been his total income the same proportion as his total income bears to his total world income]

[17][Provided further that where any such person satisfies the Income-tax Officer that he was prevented by sufficient cause from making such declaration on the first occasion on which he became assessable and his failure to make such declaration has not resulted in reducing his liability to tax for any year, the Income-tax Officer may, with the previous approval of the Inspecting Assistant Commissioner, allow such person to make the declaration at any time after the expiry of the period specified, and such declaration shall have effect in relation to the assessment for the year in which the declaration is made (if such assessment had not been completed before such declaration) and all assessments thereafter]

[18][(1A) Notwithstanding anything contained in sub-section (1), where a citizen of India, not resident in the taxable territories, is in receipt of salary from the Government

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7 Inserted by s 18, Indian I T (Amendment) Act, 1939
8 Substituted for "association of individuals", *ibid*
9 "Consisting of such individual and his wife" omitted, *ibid*
10 Substituted for "to the association", *ibid*
11 Inserted, *ibid*
12 Substituted by s 19, *ibid*
13 Substituted by s 3, F Act, 1951, w e f 1-4-1951
14 Substituted for "at the rate applicable in the case of an individual to the slab next to the slab exempt from super-tax" by s 13, F Act, 1956, w e f 1-4-1956
15 Substituted for "three annas in the rupee" by s 6, F (No' 2) Act, 1957, w e f 1-4-1957
16 The date specified is 31-12-1951 (See Notifications No S R O 713, dated 10-5-1951, and No S R O 1803, dated 16-11-1951)
17 Inserted by s 11, Indian I T (Amendment) Act, 1953, w e f 1-4-1952.
18 Inserted by s 8, F Act, 1959, w e f 1-4-1959 for making deductions of income-tax and super-tax under s 18(2), and w e f 1-4-1960 for other purposes

for rendering service without the taxable territories, the tax, including super-tax, payable by him on his total income for the assessment years commencing with the assessment year 1960-61 shall be determined with reference to his total world income in the manner specified in the first proviso to sub-section (1)]

(2) Where there is included in the total income of any assessee any income (including income from a share in an unregistered firm, if assessed as such) exempted from tax by or under the provisions of this Act, the income-tax excluding super-tax payable by the assessee shall be an amount bearing to the total amount of the income-tax excluding super-tax which would have been payable on the total income had no part of it been exempted the same proportion as the unexempted portion of the total income bears to the total income]

[19][(3) Where there is included in the total income of any assessee any income exempted from tax under [20][clause (*aa*) or] clause (*c*) of sub-section (2) of section 14, [21][or under section 15B] [22][or under section 15C], the super-tax payable by the assessee shall be an amount bearing to the total amount of the super-tax which would have been payable on the total income had no part of it been so exempted the same proportion as the total income less the portion so exempted bears to the total income

(4) Where any income exempted from tax under clause (*c*) of sub-section (2) of section 14 which has been taken into account under sub-section (2) or sub-section (3) of this section as part of the total income of an assessee for the purpose of determining the income-tax or super-tax payable by him is in a subsequent year brought into or received in [23][the taxable territories] by the assessee and becomes chargeable with tax accordingly, the tax including super-tax payable by the assessee on his total income of that subsequent year shall be—

(*a*) the amount which bears to the total amount of the tax including super-tax which would have been payable on his total income as reduced by the amount of the income so brought into or received in [23][the taxable territories] had such reduced income been his total income the same proportion as his total income bears to such reduced income, or

(*b*) the amount which bears to the total amount of the tax including super-tax which would have been payable on the amount of the income so brought into or received in [24][the taxable territories] had such income been his total income the same proportion as his total income bears to the amount of the income so brought into or received in [24][the taxable territories],

whichever is the greater]

[25][(5) Where the amount of the total income of any assessee is deemed to be the total income reduced under the provisions of section 15A by an allowance for earned income, the expression "total income" in this section shall, for the purpose of determining the amount of income-tax (but not super-tax) payable by the assessee, be deemed to refer to his total income so reduced]

[1][(6) Where the total income of an assessee, not being a company, includes any income chargeable under the head 'Capital gains", the tax, including super-tax, payable by him on his total income shall be—

[19] Sub-ss (3) and (4) inserted by s 10, Indian I T (Amendment) Act, 1941, w e f 1-4-1942
[20] Inserted by s 13, F Act, 1956, w e f 1-4-1956
[21] Inserted by s 8, Indian F Act, 1948
[22] Inserted by s 15, Taxation Laws (Extension to Merged States and Amendment) Act, 1949
[23] Substituted for "British India" by Adaptation of Laws Order, 1950
[24] Substituted for "British India", *ibid*
[25] Inserted by s 5, Indian I T (Amendment) Ordinance, 1945
[1] Inserted by s 8, I T and E P T (Amendment) Act, 1947

(i) income-tax and super-tax payable on his total income as reduced by the amount of such inclusion, had such reduced income been his total income, *plus*

[2][(ii) on the whole amount of such inclusion, income-tax equal to the amount which bears to the income-tax which would have been payable on his total income as reduced by two-thirds of the amount of such inclusion the same proportion as the whole amount of such inclusion bears to such reduced total income

Provided that where the amount of such inclusion does not exceed the sum of five thousand rupees or the total income does not exceed the sum of ten thousand rupees such income-tax shall be nil and in any other case such income-tax shall not exceed one-half of the amount by which the amount of such inclusion exceeds the sum of five thousand rupees]

[3][(7) Where the total income of a company includes any income chargeable under the head "Capital gains", the super-tax payable by it shall be the aggregate of the tax calculated—

(i) at the rate of ten per cent on the amount of capital gains so included, and

(ii) at the rate applicable to the company on its total income as reduced by the amount of the capital gains, had such reduced income been its total income]]

CHAPTER IV

DEDUCTIONS AND ASSESSMENT

18. Payment by deduction at source.—(1) [4]* * * *

(2) Any person responsible for paying any income chargeable under the head "Salaries" shall, at the time of payment, deduct income-tax [5][and super-tax] on the amount payable [6][at a rate representing the average of the rates in force for the financial year in which he is required to deduct the tax which are applicable to the estimated total income of the assessee under this head] Rr 11

Provided that such person may, at the time of making any deduction, increase or reduce the amount to be deducted under this sub-section for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct

[7][(2A) Notwithstanding anything hereinbefore contained for the purpose of making the deduction under sub-section (2), there shall be included in the amount payable any income chargeable under the head "Salaries" which is payable to the assessee out of India by or on behalf of the [8][Government], and the value in rupees of such income shall be calculated at the prescribed rate of exchange] R 10

[2] Substituted by s 5, F (No 3) Act, 1956, w e f 1-4-1957
[3] Substituted, *ibid*, w e f 1-4-1957, and further substituted by s 8, F Act, 1959, w e f 1-4-1960
[4] Omitted by s 7, Indian I T (Second Amendment) Act, 1933
[5] Substituted for "but not super-tax" by s 20, Indian I T (Amendment) Act, 1939
[6] Retrospectively substituted for "at a rate representing the average of the rates applicable to the estimated total income of the assessee under this head" by s 8, F Act, 1958
[7] Inserted by s 2, Indian I T (Second Amendment) Act, 1925
[8] Substituted for "Crown" by Adaptation of Laws Order, 1950 "The Crown" substituted for "Government" by Government of India (Adaptation of Indian Laws) Order, 1937

[9][(2B) Any person responsible for paying any income chargeable under the head "Salaries" [10][to a person not resident in the taxable territories, not being a person referred to in sub-section (1A) of section 17, shall, at the time of payment, deduct income-tax and super-tax at the prescribed rates on the estimated income of the assessee under this head]

[11][Provided that where—

(i) the person not so resident has obtained a certificate in writing from the Income-tax Officer (which certificate the Income-tax Officer shall be bound to give in every proper case on the application of the assessee) stating that income-tax and super-tax may be deducted at the rates specified therein, or

(ii) the Income-tax Officer has, by an order in writing, required the person responsible for making payment to deduct income-tax and super-tax at the rates specified in that order,

the person responsible for making payment shall, until such certificate or order is cancelled by the Income-tax Officer, deduct income-tax and super-tax at the rates specified in such certificate or order, as the case may be].]

Rr 12, 12A [12][(3) The person responsible for paying any income chargeable under the head "Interest on securities" shall, at the time of payment, deduct income-tax and super-tax at the prescribed rates on the amount of interest payable

Rr 12C, 12D Provided that where, in the case of any recipient, the Income-tax Officer gives a certificate in writing (which certificate he shall give in every proper case on the application of the assessee) that to the best of his belief the total income or the total world income of the recipient will be less than the minimum liable to income-tax or will be liable to income-tax at a rate which is less than the prescribed rate, the person responsible for paying the interest to such recipient shall, until such certificate is cancelled by the Income-tax Officer, pay the interest without deduction or deduct the tax at such lesser rate, as the case may be

Provided further that where the recipient is not a company, the proviso to sub-section (2B) shall apply to the deduction of super-tax under this sub-section as it applies to the deduction of super-tax under sub-section (2B)

(3A) * * * * *

Rr 12A, 13D (3B) Any person responsible for paying to a person, not being a company, who is not resident in the taxable territories or to a company which is neither an Indian company nor a company which has made the prescribed arrangements for the declaration and payment of dividends within India, any interest, not being "Interest on securities", or any other sum, not being dividends, chargeable under the provisions of this Act, shall, at the time of payment, unless he is himself liable to pay any income-tax and super-tax thereon as an agent, deduct income-tax and super-tax at the prescribed rates

Provided that where the recipient is not a company, the proviso to sub-section (2B) shall apply to the deduction of income-tax and super-tax under this sub-section as it applies to the deduction of income-tax and super-tax under sub-section (2B)

Provided further that nothing in this sub-section shall apply to any payment made in the course of transactions in respect of which a person responsible for payment is deemed under the first proviso to section 43 not to be an agent of the recipient.]

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9 Inserted by s 20, Indian I T (Amendment) Act, 1939

10 Substituted for "to a person not resident in the taxable territories shall at the time of payment deduct income-tax at the maximum rate and also super-tax on the estimated income of the assessee under this head in accordance with the provisions of clause (b) of sub-section (1) of section 17" by s 9, F Act, 1959, w e f 1-4-1959

11 Inserted by s 12, Indian I T (Amendment) Act, 1953, w e f 1-4-1952

12 Substituted for sub-ss (3), (3A) and (3B) by s 9, F Act, 1959, w e f 1-4-1959

[13][(3C) Where the person responsible for paying any sum chargeable under this Act other than interest, to a person not resident in the taxable territories, considers that the whole of such sum would not be income chargeable in the case of the recipient, he may make an application to the Income-tax Officer to determine, by general or special order, the appropriate proportion of such sum so chargeable and upon such determination tax shall be deducted therefrom by the person responsible for making such payment in accordance with the provisions of sub-section (3B).] R 12A

[14][(3D) The principal officer of an Indian company or a company which has made the prescribed arrangements for the declaration and payment of dividends [15][(including dividends on preference shares)] within India shall, before making any payment in cash, or before issuing any cheque or warrant in respect of any dividend or before making any distribution or payment to a shareholder of any dividend within the meaning of sub-clause *(a)* or sub-clause *(b)* or sub-clause *(c)* or sub-clause *(d)* or sub-clause *(e)* of clause *(6A)* of section 2, deduct on the amount of such dividend, income-tax and super-tax at the prescribed rates: Rr 12A, 12AA, 13D

Provided that where, in the case of any shareholder, not being a company, the Income-tax Officer gives a certificate in writing (which certificate he shall give only in accordance with the rules made in this behalf) that to the best of his belief the total income or the total world income of the shareholder will be less than the minimum liable to income-tax, the principal officer responsible for paying any dividend to such shareholder shall, until such certificate is cancelled by the Income-tax Officer, pay the dividend without deduction. R 12E

(3E) [16]* * * * *

(3F) Where the principal officer of a company considers that by reason of the provisions of section 15C no income-tax or super-tax will be payable by the recipient on the whole or any portion of the dividend referred to in sub-section (4) of that section he may, before paying the dividend to the shareholder, or issuing any cheque or warrant in respect thereof, make an application to the Income-tax Officer to determine the appropriate proportion of the dividend on which income-tax or super-tax is not payable by the recipient under the provisions of section 15C, and on such determination by the Income-tax Officer, no income-tax or super-tax shall be deducted on such proportionate amount.]

(4) All sums deducted in accordance with the provisions of this section shall, for the purpose of computing the income of an assessee, be deemed to be income received.

(5) Any deduction made [17][and paid to the account of the Central Government] in accordance with the provisions of this section [18]* * shall be treated as a payment of income-tax [19][or super-tax] on behalf of the person from whose income the deduction was made, or of the owner of the security [20][or of the shareholder], as the case may be, and credit shall be given to him therefor [17][on the production of the certificate furnished under sub-section (9) [18]* *] in the assessment, if any, made for the following year under this Act.

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[13] Substituted by s. 12, Indian I.T. (Amendment) Act, 1953, w.e.f. 1-4-1952.
[14] Substituted for sub-s. (3D) by s. 9, F. Act, 1959, w.e.f. 1-4-1959, subject to the special provisions in s. 3, F. Act, 1960.
[15] Inserted by s. 9, F. Act, 1960, w.e.f. 1-4-1960.
[16] Omitted, *ibid*., w.e.f. 1-4-1960.
[17] Inserted by s. 12, Indian I.T. (Amendment) Act, 1953, w.e.f. 1-4-1952.
[18] "And any sum by which a dividend has been increased under sub-section (2) of section 16" (which had been inserted by s. 20, Indian I.T. (Amendment) Act, 1939), and "or section 20, as the case may be", respectively, omitted by s. 9, F. Act, 1959, w.e.f. 1-4-1959, subject to the special provisions in s. 3, F. Act, 1960.
[19] Inserted by s. 7, Indian I.T. (Second Amendment) Act, 1933.
[20] Inserted by s. 20, Indian I.T. (Amendment) Act, 1939.

Provided that, if such person or such owner obtains, in accordance with the provisions of this Act, a refund of any portion of the tax so deducted, no credit shall be given for the amount of such refund

[21][Provided further that where such person or owner is a person whose income is included under the provisions of [22][clause (c) of sub-section (1) or sub-section (3) of section 16, section 44D or section 44E] in the total income of another person [23][such other person] shall be deemed to be the person or owner on whose behalf payment has been made and to whom credit shall be given in the assessment for the following year.]

[24][Provided further that where any security or share in a company is owned jointly by two or more persons not constituting a partnership, credit in respect of the tax deducted [25]* * may be given to each such person in the same proportion in which the interest on such security or dividend on such share has been included in his total income]

Rr 10, 11A, 12B (6) All sums deducted in accordance with the provisions of this section shall be paid within the prescribed time by the person making the deduction to the credit of the [1][Central Government] or as the [2][Central Board of Revenue] directs

(7) [3][If any person or the principal officer of a company does not deduct tax or after deducting fails to pay the sums deducted as required by or under this section, he, or the company, as the case may be,] shall, without prejudice to any other consequences which [4][he or it] may incur, be deemed to be [5][an assessee] in default in respect of the tax

[6][Provided that the Income-tax Officer shall not make a direction under sub-section (1) of section 46 for the recovery of any penalty from such person unless satisfied that such person has wilfully failed to deduct and pay the tax]

(8) The power to levy by deduction under this section shall be without prejudice to any other mode of recovery

Rr 13, 13A, 13B, 14 (9) Every person deducting income-tax [6][or super-tax] in accordance with the provisions of [7][sub-section (3), [8]* * (3B) [9][or (3D)]] shall, [10][at the time of payment of the sum] [11][or, as the case may be, at the time of issue of a cheque or warrant for

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21 Inserted by s 3, Indian I T (Amendment) Act, 1937
22 Substituted for "sub-section (3) of section 16" by s 20, Indian I T (Amendment) Act, 1939
23 Substituted for "that person", *ibid*
24 Inserted by s 12, Indian I T (Amendment) Act, 1953, w e f 1-4-1952
25 "Or in respect of any sum by which the dividend has been increased under sub-section (2) of section 16" omitted by s 9, F Act, 1959, w e f 1-4-1959, subject to the special provisions in s 3, F Act, 1960

1 Substituted for "Government of India" by Government of India (Adaptation of Indian Laws) Order, 1937
2 Substituted for "Board of Inland Revenue" by s 4 and Sch , Central Board of Revenue Act, 1924
3 Substituted for "If any such person does not deduct or after deducting fails to pay the tax as required by or under this section, he, and in the cases specified in sub-section (3D) the company of which he is the principal officer" by s 9, F Act, 1959, w e f 1-4-1959, subject to the special provisions in s 3, F Act, 1960
4 Substituted for "he" by s 20, Indian I T (Amendment) Act, 1939
5 Substituted for "personally" by s 7, Indian I T (Second Amendment) Act, 1933
6 Inserted, *ibid*
7 Substituted for "sub-section (3)", *ibid*
8 "(3A)" omitted by s 9, F Act, 1959, w e f 1-4-1959
9 Substituted for "(3C), (3D) or (3E)" by s 12, Indian I T (Amendment) Act, 1953, w e f 1-4-1952
10 "At the time of payment of the sum from which tax has been deducted" substituted for "at the time of payment of interest or dividends" by s 20, Indian I T (Amendment) Act, 1939
11 Substituted for "from which tax has been deducted, furnish to the person to whom such payment is made" by s 9, F Act, 1959, w e f 1-4-1959, subject to the special provisions in s 3, F Act, 1960.

payment of any dividend to a shareholder furnish to the person to whom such payment is made or the cheque or warrant is issued] a certificate to the effect that income-tax [12][or super-tax] has been deducted, and specifying the amount so deducted, the rate at which the tax has been deducted, and such other particulars as may be prescribed

[13][(10) Notwithstanding anything contained in this section, no deduction of tax shall be made on any interest or dividend payable to the Government or to the Reserve Bank of India in respect of any securities or shares owned by it or in which it has full beneficial interest

(11) For the purposes of deduction of tax under sub-sections (2B), (3), (3B) and (3D) the expression "prescribed rates" means the rates prescribed in this behalf by the Finance Act of the year in which such deduction is required to be made]

[14][*Explanation* —For the purposes of this section and section 20A, the expression "person responsible for paying" means—

(*i*) in the case of payments of income chargeable under the head "Salaries" other than payments by the Central Government or the Government of a State, the employer himself or if the employer is a company, the company itself including the principal officer thereof,

(*ii*) in the case of payments of income chargeable under the head "Interest on securities" other than payments made by or on behalf of the Central Government or the Government of a State, the local authority or company including the principal officer thereof,

(*iii*) in the case of payment of interest not being "Interest on securities", the payer himself or if the payer is a company, the company itself including the principal officer thereof]

[15][**18A. Advance payment of tax.**—(1) (*a*) [16][In the case of income other than R
income chargeable under the head "Salaries",] the Income-tax Officer may, on or after 20A
the 1st day of April in any financial year, by order in writing, require an assessee to pay quarterly to the credit of the Central Government on the 15th day of June, 15th day of September, 15th day of December and 15th day of March in that year, respectively, an amount equal to one-quarter of the income-tax and super-tax payable on so much of such income as is included in his total income of the latest previous year in respect of which he has been assessed, [17][if that total income exceeded the maximum amount not chargeable to tax in his case by two thousand five hundred rupees] Such income-tax and super-tax shall be calculated at the rates in force for the financial year in which he is required to pay the tax, and shall bear to the total amount of income-tax and super-tax so calculated on the said total income the same proportion as the amount of such inclusions bears to his total income or, in cases where under the provisions of sub-section (1) of section 17 both income-tax and super-tax or super-tax are chargeable with reference to the total world income, shall bear to the total amount of income-tax and super-tax which would have been payable on his total world income of the said previous year had it been his total income the same proportion as the amount of such inclusions bears to his total world income [18][The income-tax and super-tax so calculated shall be reduced by the amount of income-tax and super-tax which would be deductible during the said financial year in accordance with the

[12] Inserted by s 7, Indian I T (Second Amendment) Act, 1933

[13] Inserted by s 9, F Act, 1959, w e f 1-4-1959, subject to the special provisions in s 3, F Act, 1960

[14] Inserted by s 12, Indian I T (Amendment) Act, 1953, w e f 1-4-1952

[15] Inserted by s 5, Indian I T (Amendment) Act, 1944

[16] Substituted for "In the case of income in respect of which provision is not made under section 18 for deduction of income-tax at the time of payment" by s 10, F Act, 1960, w e f 1-4-1960

[17] Substituted for "if that total income exceeded six thousand rupees" by s 13, Indian I T (Amendment) Act, 1953, w e f 1-4-1952

[18] Inserted by s 10, F Act, 1960, w e f 1-4-1960

provisions of section 18 on any income (other than income chargeable under the head "Salaries") included in the said total income]

Provided that, where the previous year of the assessee in respect of any source of income ends after the 31st day of December and before the 30th day of April, the order in writing issued by the Income-tax Officer requiring the payment of income-tax and super-tax on that source of income shall substitute for the four quarterly payments hereinbefore specified, three payments of equal amount to be made on the 15th day of September, the 15th day of December and the 15th day of March, respectively

Provided further that, if the assessee is a partner of a registered firm and an assessment of the firm has been completed for a previous year later than that for which the assessee's last assessment has been completed, his share in the profits of the firm shall, for the purposes of this sub-section, be included in his total income on the basis of the latest assessment of the firm

Provided further that, if after the making of an order by the Income-tax Officer and before the 15th day of February of the financial year an assessment of the assessee or of the registered firm of which he is a partner is completed in respect of a previous year later than that referred to in the order of the Income-tax Officer, the Income-tax Officer may make an amended order requiring the assessee to pay in one instalment on the specified date, or in equal instalments on the specified dates if more than one, falling after the date of the amended order, the tax computed on the revised basis as reduced by the amount, if any, paid in accordance with the original order, but if the amount already paid exceeds the tax determined on the revised basis, the excess shall be refunded

(*b*) If the notice of demand issued under section 29 in pursuance of the order under clause (*a*) of this sub-section is served after any of the dates on which the instalments specified therein are payable, the tax shall be payable in equal instalments on each of such of those dates as fall after the date of the service of the notice of demand, or in one sum on the 15th day of March if the notice is served after the 15th day of December

R 20AA (2) If any assessee who is required to pay tax by an order under sub-section (1) estimates at any time before the last instalment is due that the part of his income to which that sub-section applies for the period which would be the previous year for an assessment for the year next following is less than the income on which he is required to pay tax and accordingly wishes to pay an amount less than the amount which he is so required to pay, he may send to the Income-tax Officer an estimate of the tax payable by him calculated in the manner laid down in sub-section (1) on that part of his income for such period, and shall pay such amount as accords with his estimate in equal instalments on such of the dates specified in sub-section (1)(*a*) as have not expired or in one sum if only the last of such dates has not expired

Provided that the assessee may send a revised estimate of the tax payable by him before any one of the dates specified in sub-section (1)(*a*) and adjust any excess or deficiency in respect of any instalment already paid in a subsequent instalment or in subsequent instalments

R 20AA (3) Any person who has not hitherto been assessed shall, before the 15th day of March in each financial year, if his total income of the period which would be the previous year for an assessment for the financial year next following [19][is likely to exceed the maximum amount not chargeable to tax in his case by two thousand five hundred rupees], send to the Income-tax Officer an estimate of the tax payable by him

[19] Substituted for "is likely to exceed six thousand rupees" by s 13, Indian I T (Amendment) Act, 1953, w e f 1-4-1952

on that part of his income [20][which is not chargeable under the head "Salaries"] of the said previous year calculated in the manner laid down in sub-section (1), and shall pay the amount, on such of the dates specified in that sub-section as have not expired, by instalments which may be revised according to the proviso to sub-section (2)

(4) Where part of the income to which sub-section (1), (2) or (3) applies consists of any income of the nature of commission which is receivable periodically and is not received or adjusted by the payer in the assessee's account before any of the quarterly instalments of tax become due, he may defer payment of tax on that part of his income to the date on which such income would be normally received or adjusted and if he does so he shall communicate to the Income-tax Officer the date to which such payment is deferred

Provided that, if the tax of which the payment is deferred is not paid within fifteen days of the date on which such income or part thereof is received or adjusted by the payer in the assessee's account, the tax shall be payable with six per cent simple interest per annum from the date of such receipt or adjustment to the date of payment of the tax

(5) [21][The Central Government shall pay simple interest—

(i) at two per cent per annum on any amount payable in accordance with the provisions of this section before the 1st day of April, 1955, and paid accordingly,

(ii) at four per cent per annum on any amount payable in accordance with the provisions of this section after the 1st day of April, 1955, and paid accordingly,]

from the date of payment [22][to the date of the provisional assessment made under section 23B, or if no such assessment has been made,] to the date of the assessment (hereinafter called the "regular assessment") made under section 23 of the income, profits and gains of the previous year for an assessment for the year next following the year in which the amount was payable

Provided that on any portion of such amount which is refunded under the foregoing provisions of this section interest shall be payable only up to the date on which the refund was made

[23][Provided further that for any period beginning with the 1st day of April, 1952, interest shall be payable only on the amount by which the aggregate sum of any instalments paid during any financial year in which they are payable under this section exceeds the amount of the tax determined on regular assessment calculated as hereunder—

(i) in respect of such instalments paid in any financial year before the said date, from the said date to the date of the regular assessment,

(ii) in respect of such instalments paid after the said date, from the beginning of the financial year next following to the date of the regular assessment]

(6) Where in any year an assessee has paid tax under sub-section (2) or sub-section (3) on the basis of his own estimate, and the tax so paid is less than eighty per cent of the tax determined on the basis of the [24][regular assessment (reduced by the

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[20] Substituted for "to which the provisions of section 18 do not apply" by s 10, F Act, 1960, w e f 1-4-1960

[21] Substituted for "The Central Government shall pay on any amount paid under this section simple interest at two per cent per annum" by s 14, F Act, 1955, w e f 1-4-1955

[22] Inserted by s 16, Taxation Laws (Extension to Merged States and Amendment) Act, 1949

[23] Inserted by s 13, Indian I T (Amendment) Act, 1953, w e f 1-4-1952

[24] Substituted for "regular assessment, so far as such tax relates to income to which the provisions of section 18 do not apply" by s 10, F Act, 1960, w e f 1-4-1960

amount of tax deductible in accordance with the provisions of section 18 on any income, other than income chargeable under the head "Salaries", included in such assessment), so far as such tax relates to income other than income chargeable under the head "Salaries"] and so far as it is not due to variations in the rates of tax made by the Finance Act enacted for the year for which the regular assessment is made, simple interest at the rate of six per cent per annum from the 1st day of January in the financial year in which the tax was paid up to the date of the said regular assessment shall be payable by the assessee upon the amount by which the tax so paid falls short of the said eighty per cent

[25][Provided that for any period after the 31st day of March, 1952, interest shall be payable at the rate of four per cent per annum]

[1][Provided [25][further] that where a provisional assessment is made under section 23B, interest shall be calculated in accordance with the foregoing provision up to the date on which the tax as provisionally assessed is paid, and thereafter interest shall be calculated at the rate aforesaid on the amount by which the tax as so assessed (in so far as it relates to income [2][other than income chargeable under the head "Salaries"]) falls short of the said eighty per cent]

Provided [1][also] that, where, as a result of an appeal under section 31 or section 33 or of a revision under section 33A or of a reference to the High Court under section 66, the amount on which interest was payable under this sub-section has been reduced the interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded together with the amount of income-tax that is refundable.

Provided further that, where a business, profession or vocation is newly set up and is assessable on the income, profits and gains of its first previous year in the financial year following that in which it is set up, the interest payable shall be computed from the 1st day of April of the said financial year

R 48 [25][Provided further that in such cases and under such circumstances as may be prescribed, the Income-tax Officer may reduce or waive the interest payable by the assessee]

(7) Where, on making the regular assessment, the Income-tax Officer finds that any assessee has—

(*a*) under sub-section (2) or sub-section (3) underestimated the tax payable by him and thereby reduced the amount payable in any of the first three instalments, or

(*b*) under sub-section (4) wrongly deferred the payment of tax on a part of his income,

he may direct that the assessee shall pay simple interest at six per cent per annum, in the case referred to in clause (*a*) for the period during which the payment was deficient on the difference between the amount paid in each such instalment and the amount which should have been paid having regard to the aggregate tax actually paid under this section during the year, and in the case referred to in clause (*b*) for the period during which the payment of tax was wrongly deferred on the amount of which the payment was so deferred

Provided that for the purposes of this sub-section any instalment due before the expiry of six months from the commencement of the previous year in respect of which

[25] Inserted by s 13, Indian I T (Amendment) Act, 1953, w e f 1-4-1952.
[1] Inserted by s 16, Taxation Laws (Extension to Merged States and Amendment) Act, 1949
[2] Substituted for "to which the provisions of section 18 do not apply" by s 10, F. Act, 1960, w e f 1-4-1960

it is to be paid shall be deemed to have become due fifteen days after the expiry of the said six months

(8) Where, on making the regular assessment, the Income-tax Officer finds that no payment of tax has been made in accordance with the foregoing provisions of this section, interest calculated in the manner laid down in sub-section (6) shall be added to the tax as determined on the basis of the regular assessment

(9) If the Income-tax Officer, in the course of any proceedings in connection with the regular assessment, is satisfied that any assessee—

(*a*) has furnished under sub-section (2) or sub-section (3) estimates of the tax payable by him which he knew or had reason to believe to be untrue, or

(*b*) has without reasonable cause failed to comply with the provisions of sub-section (3),

the assessee shall be deemed, in the case referred to in clause (*a*), to have deliberately furnished inaccurate particulars of his income, and in the case referred to in clause (*b*), to have failed to furnish the return of his total income, and the provisions of section 28, so far as may be, shall apply accordingly

Provided that the amount of penalty leviable shall, in the case referred to in clause (*a*), be a sum not exceeding one-and-a-half times the amount by which the tax actually paid during the year under the provisions of this section falls short of the tax that should have been paid by the assessee under sub-section (1) or eighty per cent of the tax determined on the basis of the regular assessment as modified in the manner provided in sub-section (6), whichever is the less, and, in the case referred to in clause (*b*), one-and-a-half times the said eighty per cent

(10) (*a*) If any assessee does not pay on the specified dates any instalment of tax that he is required to pay under sub-section (1) and does not, before the date on which any such instalment as is not paid becomes due, send under sub-section (2) an estimate or a revised estimate of the tax payable by him, he shall be deemed to be an assessee in default in respect of such instalment or instalments

(*b*) If any assessee has sent under sub-section (2) or sub-section (3) an estimate or a revised estimate of the tax payable by him, but does not pay any instalment in accordance therewith on the date or dates specified in sub-section (1), he shall be deemed to be an assessee in default in respect of such instalment or instalments

Provided that the assessee shall not, under clause (*a*) or (*b*), be deemed to be in default in respect of any amount of which the payment is deferred under sub-section (4) until after the date communicated by him to the Income-tax Officer under that sub-section

(11) Any sum other than a penalty or interest paid by or recovered from an assessee in pursuance of the provisions of this section shall be treated as a payment of tax in respect of the income of the period which would be the previous year for an assessment for the financial year next following the year in which it was payable, and credit therefor shall be given to the assessee in the regular assessment]

[3][(12) Any income chargeable under the head "Capital gains" shall not be taken into account for any of the purposes of this section]

[4][**19. Payment in other cases.**—In the case of income in respect of which provision is not made under section 18 for deduction of income-tax at the time of payment, and in any case where income-tax has not been deducted in accordance with the provisions of section 18, income-tax shall be payable by the assessee direct]

[3] Inserted by s 9, I T and E P T (Amendment) Act, 1947
[4] Substituted by s 21, Indian I T (Amendment) Act, 1939

Rr 13D, 42, 43 [5][**19A. Supply of information regarding dividends.**—The principal officer of every company [6][which is an Indian company or a company which has made such effective arrangements as may be prescribed for the declaration and payment of dividends in [7][the taxable territories]] shall, on or before the 15th day of June in each year, furnish to the prescribed officer a return in the prescribed form and verified in the prescribed manner of the names and of the addresses, as entered in the register of shareholders maintained by the company, of the shareholders to whom a dividend or aggregate dividends exceeding such amount as may be prescribed in this behalf has or have been distributed during the preceding year and of the amount so distributed to each such shareholder]

R 14 **20. Certificate by company to shareholders receiving dividends.**—*Omitted by s. 10 of the Finance Act, 1959, with effect from 1st April 1959, subject to the special provisions in s 3 of the Finance Act, 1960*

Rr 42A, 43A [8][**20A. Supply of information regarding interest.**—The person responsible for paying any interest not being "Interest on securities" shall, on or before the 15th day of June in each year, furnish to the prescribed officer a return in the prescribed form and verified in the prescribed manner of the names and addresses of all persons to whom during the previous financial year he has paid interest or aggregate interest exceeding such amount not being less than [9][four hundred] rupees as may be prescribed in this behalf, together with the amount paid to each such person]

Rr 15, 16, 17 **21. Annual return**—The prescribed person in the case of every Government office, and the principal officer or the prescribed person in the case of every local authority, company or other public body or association, and every private employer shall prepare, and, within thirty days from the 31st day of March in each year, deliver or cause to be delivered to the Income-tax Officer in the prescribed form [10][and verified in the prescribed manner], a return in writing showing—

(*a*) the name and, so far as it is known, the address of every person who was receiving on the said 31st day of March, or has received [10][or to whom was due] during the year ending on that date, from the authority, company, body, association or private employer, as the case may be, any income chargeable under the head "Salaries" of such amount as may be prescribed,

(*b*) the amount of the income so received [11][or so due] by each such person, and the time or times at which the same was paid [11][or due, as the case may be],

(*c*) the amount deducted in respect of income-tax [11][and super-tax] from the income of each such person

Rr 18, 18A, 19 **22. Return of income**—[12][(1) The Income-tax Officer shall, on or before the 1st day of May in each year, give notice, by publication in the press and by publication in the prescribed manner, requiring every person whose total income during the previous year exceeded the maximum amount which is not chargeable to income-tax to furnish, within such period not being less than sixty days as may be specified in the notice, a return, in the prescribed form and verified in the prescribed manner, setting forth (along with such other particulars as may be required by the notice) his total income and total world income during that year

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5 Inserted by s 2, Indian I T (Amendment) Act, 1926
6 Inserted by s 8, Indian F Act, 1948
7 Substituted for "British India" by Adaptation of Laws Order, 1950
8 Inserted by s 9, Indian I T (Second Amendment) Act, 1933
9 Substituted for "one thousand" by s 22, Indian I T (Amendment) Act, 1939
10 Inserted by s 23, *ibid*
11 Inserted by s 23, *ibid*
12 Substituted by s 24, *ibid*

Provided that the Income-tax Officer may in his discretion extend the date for the delivery of the return in the case of any person or class of persons]

(2) In the case of any person [13]* * whose total income is, in the Income-tax R 19 Officer's opinion, of such an amount as to render such person liable to income-tax, the Income-tax Officer [14][may serve] a notice upon him requiring him to furnish, within such period, not being less than thirty days, as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner setting forth (along with such other particulars as may be provided for in the notice) his total income [15][and total world income] during the previous year·

[15][Provided that the Income-tax Officer may in his discretion extend the date for the delivery of the return]

[16][(2A) If any person who has not been served with a notice under sub-section (2) R 19 has sustained a loss of profits or gains in any year under the head "Profits and gains of business, profession or vocation", and such loss or any part thereof would ordinarily *have been carried forward under sub-section (2) of section 24, he shall, if he is to be* entitled to the benefit of the carry forward of loss in any subsequent assessment, furnish within the time specified in the general notice given under sub-section (1) or within such further time as the Income-tax Officer in any case may allow, all the particulars required under the prescribed form of return of total income and total world income in the same manner as he would have furnished a return under sub-section (1) had his income exceeded the maximum amount not liable to income-tax in his case, and all the provisions of this Act shall apply as if it were a return under sub-section (1)]

(3) If any person has not furnished a return within the time allowed by or under sub-section (1) or sub-section (2), or having furnished a return under either of those sub-sections, discovers any omission or wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the assessment is made [17]* *.

(4) The Income-tax Officer may serve [18]* * on any person [19][who has made a R 19A return under sub-section (1) or] upon whom a notice has been served under sub-section (2) a notice requiring him, on a date to be therein specified, to produce, or cause to be produced, such accounts or documents as the Income-tax Officer may require, [20][or to furnish in writing and verified in the prescribed manner information in such form and on such points or matters (including, with the previous approval of the Commissioner, a statement of all assets and liabilities not included in the accounts) as the Income-tax Officer may require for the purposes of this section]

Provided that the Income-tax Officer shall not require the production of any accounts relating to a period more than three years prior to the previous year

[21][(5) The prescribed form of the returns referred to in sub-sections (1) and (2) shall, R 19 in the case of an assessee engaged in any business, profession or vocation, require him to furnish particulars of the location and style of the principal place wherein he carries on the business, profession or vocation and of any branches thereof, the names and addresses of his partners, if any, in such business, profession or vocation and the extent of the share of the assessee and the shares of all such partners in the profits of the business, profession or vocation and any branches thereof]

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[13] "Other than a company" omitted by s 22, Indian I T (Amendment) Act, 1939.
[14] Substituted for "shall serve", *ibid*
[15] Inserted, *ibid*
[16] Inserted by s 14, Indian I T (Amendment) Act, 1953, w e f 1-4-1952
[17] "And any return so made shall be deemed to be a return made in due time under this section" omitted by s 24, Indian I T (Amendment) Act, 1939
[18] "On the principal officer of any company or" omitted, *ibid*
[19] Inserted, *ibid*
[20] Inserted by s 14, Indian I T (Amendment) Act, 1953, w e f 1-4-1952
[21] Inserted by s 24, Indian I T (Amendment) Act, 1939.

23. Assessment.—(1) If the Income-tax Officer is satisfied [22][without requiring the presence of the assessee or the production by him of any evidence] that a return made under *section* 22 is correct and complete, he shall assess the total income of the assessee, and shall determine the sum payable by him on the basis of such return.

(2) If the Income-tax Officer [23][is not satisfied without requiring the presence of the person who made the return or the production of evidence that a return made under section 22 is correct and complete, he shall serve on such person] a notice requiring him, on a date to be therein specified, either to attend at the Income-tax Officer's office or to produce, or to cause to be there produced, any evidence on which such person may rely in support of the return

(3) On the day specified in the notice issued under sub-section (2), or as soon afterwards as may be, the Income-tax Officer, after hearing such evidence as such person may produce and such other evidence as the Income-tax Officer may require, on specified points, shall, by an order in writing, assess the total income of the assessee, and determine the sum payable by him on the basis of such assessment

(4) [23][If any person fails to make the return required by any notice given under sub-section (2) of section 22 and has not made a return or a revised return under sub-section (3) of the same section] or fails to comply with all the terms of a notice issued under sub-section (4) of the same section or, having made a return, fails to comply with all the terms of a notice issued under sub-section (2) of this section, the Income-tax Officer shall make the assessment to the best of his judgment [24][and determine the sum payable by the assessee on the basis of such assessment] [25][and, [1][in the case of a firm, may refuse to register it or may cancel its registration if it is already registered]]:

[2][Provided that the registration of a firm shall not be cancelled until fourteen days have elapsed from the issue of a notice by the Income-tax Officer to the firm intimating his intention to cancel its registration]

[3][(5) Notwithstanding anything contained in the foregoing sub-sections, when the assessee is a firm and the total income of the firm has been assessed under sub-section (1), sub-section (3) or sub-section (4), as the case may be,—

(*a*) in the case of a registered firm,

[4][(*i*) the income-tax payable by the firm itself shall be determined, and

(*ii*) the total income of each partner of the firm, including therein his share of its income, profits and gains of the previous year, shall be assessed and the sum payable by him on the basis of such assessment shall be determined]

Provided that if such share of any partner is a loss it shall be set off against his other income or carried forward and set off in accordance with the provisions of section 24

Provided further that when any of such partners is a person not resident in [5][the taxable territories], his share of the income, profits

[22] Inserted by s 25, Indian I T (Amendment) Act, 1939
[23] Substituted, *ibid*
[24] Inserted, *ibid*
[25] Inserted by s 3, Indian I T (Amendment) Act, 1930
[1] Substituted for "in the case of a registered firm, may cancel its registration" by s. 25, Indian I T. (Amendment) Act, 1939
[2] Inserted by s 3, Indian I T (Amendment) Act, 1930
[3] Inserted by s 25, Indian I T (Amendment) Act, 1939
[4] Substituted for "the sum payable by the firm itself shall not be determined but the total income of each partner of the firm, including therein his share of its income, profits and gains of the previous year, shall be assessed and the sum payable by him on the basis of such assessment shall be determined" by s 14, F Act, 1956, w e f 1-4-1956
[5] Substituted for "British India" by Adaptation of Laws Order, 1950

and gains of the firm shall be assessed on the firm at the rates which would be applicable if it were assessed on him personally, and the sum so determined as payable shall be paid by the firm

[6][Provided also that if at the time of assessment of any partner of a registered firm, the Income-tax Officer is of opinion that the partner is residing in Pakistan, the partner's share of the income, profits and gains of the firm shall be assessed on the firm in the manner laid down in the preceding proviso and the sum so determined as payable shall be paid by the firm, and]

[7][(*b*) in the case of an unregistered firm, the Income-tax Officer may, instead of determining the sum payable by the firm itself, proceed to assess the total income of each partner of the firm, including therein his share of its income, profits and gains of the previous year, and determine the tax payable by each partner on the basis of such assessment, if, in the Income-tax Officer's opinion, the aggregate amount of the tax including super-tax, if any, payable by the partners under such procedure would be greater than the aggregate amount which would be payable by the firm and the partners individually, if separately assessed, and where the procedure specified in this clause is applied to any unregistered firm, the provisos to clause (*a*) of this sub-section shall apply thereto as they apply in the case of a registered firm]]

[8][(6) Whenever the Income-tax Officer makes a determination in accordance with the provisions of sub-section (5), he shall notify to the firm by an order in writing the amount of the total income on which the determination has been based and the apportionment thereof between the several partners]

[9][**23A. Power to assess companies to super-tax on undistributed income in certain cases.**—[10][(1) Where the Income-tax Officer is satisfied that in respect of any previous year the profits and gains distributed as dividends by any company within the twelve months immediately following the expiry of that previous year are less than the statutory percentage of the total income of the company of that previous year as reduced by—

(*a*) the amount of income-tax and super-tax payable by the company in respect of its total income, but excluding the amount of any super-tax payable under this section,

(*b*) the amount of any other tax levied under any law for the time being in force on the company by the Government or by a local authority in excess of the amount, if any, which has been allowed in computing the total income, and

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[6] Inserted by India (Adaptation of Income-tax, Profits Tax and Revenue Recovery Acts) Order, 1947

[7] Substituted by s 14, F Act, 1956, w e f 1-4-1956

[8] Inserted by s 12, Indian I T (Amendment) Act, 1941

[9] Substituted by s 15, F Act, 1955, w e f 1-4-1955

"For the removal of doubts, it is hereby declared that the provisions of section 23A of the Income-tax Act, as in force immediately before the 1st day of April, 1955, shall continue to apply to a company in respect of its profits and gains of a previous year relevant to any assessment year prior to the assessment year ending on the 31st day of March, 1956, and also to its shareholders referred to in sub-section (1) of section 23A as then in force in respect of their appropriate previous years, notwithstanding that the relevant assessment years in respect of such previous years end on or after the 31st day of March, 1956 "—*S 20(4), F Act, 1955*

[10] Sub-ss (1) and (2) substituted by s 7, F (No 2) Act, 1957, w e f 1-4-1957

"For the removal of doubts, it is hereby declared that the provisions of section 23A of the Income-tax Act, as in force immediately before the 1st day of April, 1957, shall continue to apply to a company in respect of its profits and gains of a previous year relevant to any assessment year prior to the assessment year ending on the 31st day of March, 1958 "—*S 11(4), F (No 2) Act, 1957.*

(*c*) in the case of a banking company, the amount actually transferred to a reserve fund under section 17 of the Banking Companies Act, 1949 (X of 1949),

the Income-tax Officer shall, [11][unless he is satisfied—

(*i*) that, having regard to the losses incurred by the company in earlier years or to the smallness of the profits made in the previous year, the payment of a dividend or a larger dividend than that declared would be unreasonable, or

(*ii*) that the payment of a dividend or a larger dividend than that declared would not have resulted in a benefit to the revenue], [12][or]

[12][(*iii*) that at least seventy-five per cent of the share capital of the company is throughout the previous year beneficially held by an institution or fund established in the taxable territories for a charitable purpose the income whereof is exempt under clause (*i*) of sub-section (3) of section 4,]

make an order in writing that the company shall, apart from the sum determined as payable by it on the basis of the assessment under section 23, be liable to pay super-tax at the rate of fifty per cent in the case of a company whose business consists wholly or mainly in the dealing in or holding of investments, and at the rate of thirty-seven per cent in the case of any other company on the undistributed balance of the total income of the previous year, that is to say, on the total income as reduced by the amounts, if any, referred to in clause (*a*), clause (*b*) or clause (*c*) and the dividends actually distributed, if any

(2) No order under sub-section (1) shall be made,—

(*i*) in the case of a company whose business consists wholly or mainly in the dealing in or holding of investments which has distributed not less than [13][eighty] per cent of its total income as reduced by the amounts, if any, referred to in clause (*a*), clause (*b*) or clause (*c*) of sub-section (1), or

(*ii*) in the case of any other company whose distribution falls short of the statutory percentage by not more than five per cent of its total income as reduced by the amounts, if any, aforesaid, or

(*iii*) in any case where according to the return made by a company under section 22 it has distributed not less than the statutory percentage of its total income as reduced by the amounts, if any, aforesaid, but in the assessment made by the Income-tax Officer under section 23 a higher total income is arrived at and the difference in the total income does not arise out of the application of the proviso to section 13 or sub-section (4) of section 23 or the omission by the company to disclose its income fully and truly,

unless the company, on receipt of a notice from the Income-tax Officer that he proposes to make such an order, fails to make within three months of the receipt of such notice a further distribution of its profits and gains so that the total distribution made is not less than the statutory percentage of the total income of the company as reduced by the amounts, if any, aforesaid]

(3)—(7) [14]* * * * *

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[11] Substituted for "unless he is satisfied that, having regard to the losses incurred by the company in earlier years or to the smallness of the profits made in the previous year, the payment of a dividend or a larger dividend than that declared would be unreasonable" by s 9, F Act, 1958, w e f 1-4-1958

[12] Inserted by s 8, F Act, 1961, w e f 1-4-1960

[13] Substituted for "ninety" by s 11, F Act, 1960, w e f 1-4-1960

[14] Omitted by s 7, F (No 2) Act, 1957, w e f 1-4-1957 (See p 67, f n 10)

be reasonably estimated with reference to the extent to which the activities of such permanent establishment have contributed to earning of profits

(5) The term "industrial or commercial profits", as used in this Article, shall not include income in the form of dividends, interest, rents, royalties and similar payments as referred to in paragraph (2) of Article VII, capital gains, remuneration for personal services, or fees for technical services

Article IV—Where—

(*a*) an enterprise of one of the Contracting States participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

(*b*) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the Contracting States and an enterprise of the other Contracting State,

and, in either case, conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which but for those conditions would have accrued to one of the enterprises but by reason of those conditions have not so accrued may be included in the profits of that enterprise and taxed accordingly

Article V—(1) Profits derived by an enterprise of one of the Contracting States from the operation of aircraft shall not be subjected to tax in the other Contracting State unless the aircraft is operated wholly or mainly between places within that other Contracting State

(2) The provisions of paragraph (1) shall likewise apply in respect of participations in a pooled service, in a joint air transport operating organisation or an international operating agency

Article VI—(1) Where an enterprise of one of the Contracting States derives profits through shipping operations carried on in the other Contracting State, the tax leviable on such profits in the other Contracting State shall be reduced by an amount equal to fifty per cent thereof and the reduced amount of tax payable in that other Contracting State on such profits shall be allowed as a credit against, but in an amount not exceeding, the tax charged in respect of such profits in the first-mentioned Contracting State

(2) Paragraph (1) shall not apply to profits arising as a result of coastal traffic The term "coastal traffic" means traffic which originates and terminates in the territorial waters of the same Contracting State

(3) This Article shall not, in the case of India, affect the provisions of sub-sections (1) to (6) of section 172 of the Income-tax Act, 1961, relating to the assessment of profits from occasional shipping or tramp steamers When an adjustment is to be made under sub-section (7) of section 172 of the said Act in the case of occasional shipping or tramp steamers, the provisions of paragraph (1) shall apply

Article VII—(1) Royalties derived by a resident of one of the Contracting States from sources in the other Contracting State may be taxed in both the Contracting States

(2) In this Article, the term "royalties" means payments of any kind received as consideration for the use of, or for the right to use, any copyrights of literary, artistic or scientific works, cinematographic films, patents, models, designs, plans, secret processes or formulae, trade-marks or for the use of, or for the right to use, industrial, commercial or scientific equipment or for information concerning industrial, commercial or scientific experience, but does not include any royalty or similar payments

3 he habitually secures orders in the first-mentioned Contracting State, exclusively or almost exclusively, for the enterprise itself or for the enterprise and other enterprises which are controlled by it or have a controlling interest in it A person from one of the Contracting States who is present in the other Contracting State for not more than three months in the taxable year for the purpose of securing orders shall not be deemed to be habitually securing orders within the meaning of this sub-paragraph,

(*ee*) a broker, a commission agent or other agent of a genuinely independent status who merely acts as an intermediary between an enterprise of one of the Contracting States and a prospective customer in the other Contracting State shall not be deemed to be a permanent establishment in that other Contracting State in cases where such activities do not involve securing of orders within the meaning of sub-paragraph (*dd*)3 above,

(*ff*) the fact that a company, which is a resident of one of the Contracting States, has a subsidiary company which either is a resident of the other Contracting State or carries on a trade or business in that other Contracting State shall not, of itself, constitute that subsidiary company a permanent establishment of its parent company,

(*j*) the term "competent authority" means

in the case of India, the Central Government in the Ministry of Finance, Department of Revenue, or its authorised representative,

in the case of France, for the purpose of interpretation of the present Agreement, the Minister of Foreign Affairs and for any other purposes, the Minister of Finance or his authorised representative

(2) In the application of the provisions of the present Agreement in either Contracting State, any term not otherwise defined in the present Agreement shall, unless the context otherwise requires, have the meaning which it has under the laws in force in that Contracting State relating to the taxes which are the subject of the present Agreement

Article III—(1) The industrial or commercial profits (excluding the profits derived from the operation of ships or aircraft) of an enterprise of one of the Contracting States shall not be subjected to tax in the other Contracting State unless the enterprise has a permanent establishment situated in that other Contracting State. If it has such a permanent establishment, the profits attributable thereto shall be subjected to tax only in that other Contracting State

(2) Where an enterprise of one of the Contracting States has a permanent establishment situated in the other Contracting State, there shall be attributed to such permanent establishment the industrial or commercial profits which it might be expected to derive in that other Contracting State, if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing on an independent basis with the enterprise of which it is a permanent establishment

(3) In determining the industrial or commercial profits of a permanent establishment, there shall be allowed as deductions all expenses, wherever incurred, reasonably allocable to such permanent establishment, including executive and general administrative expenses so allocable

(4) In a case where the ascertainment of the correct amount of the industrial or commercial profits of a permanent establishment presents difficulties, such profits may

Contracting States by an individual who is a resident of the other Contracting State may be taxed only in the Contracting State in which such services are rendered

(2) Notwithstanding the provisions of paragraph (1) of this Article, salaries, wages, or other similar remuneration paid to an individual who is a resident of one of the Contracting States for services performed in the other Contracting State shall not be subjected to tax in that other Contracting State and may be subjected to tax in the former Contracting State, if

(*a*) he is present in that other Contracting State for a period or periods not exceeding in the aggregate 183 days in the taxable year concerned, and

(*b*) the remuneration is paid by or on behalf of an employer who is not a resident of that other Contracting State, and

(*c*) the remuneration is not deducted in computing the profits of a permanent establishment chargeable to tax in that other Contracting State

(3) Notwithstanding the provisions of paragraphs (1) and (2) of this Article, remuneration for personal services performed aboard a ship or aircraft operated by an enterprise of one of the Contracting States in international traffic shall be taxed only in that Contracting State

Article XV—(1) Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be subjected to tax only in the Contracting State where such services or activities are performed

(2) Income derived by public entertainers, such as theatre, motion picture, radio or television artistes and musicians, and by athletes, from their personal activities as such shall be subjected to tax only in the Contracting State in which such activities are exercised

Article XVI—Amounts paid by an enterprise of one of the Contracting States for technical services furnished by an enterprise of the other Contracting State shall not be subjected to tax in the first-mentioned Contracting State except in so far as such amounts are attributable to activities actually performed in the first-mentioned Contracting State In computing the income so subjected to tax, there shall be allowed as deductions the expenses incurred in the first-mentioned Contracting State in connection with the activities performed in that Contracting State

Article XVII—(1) A resident of one of the Contracting States, who, at the invitation of a university, college, school or other recognised educational institution in the other Contracting State, visits that other Contracting State solely for the purpose of teaching or engaging in research at such educational institution for a period not exceeding two years shall not be taxed in that other Contracting State on his remuneration for such teaching or research

(2) This Article shall apply to an individual engaged in research only if the results of such research are freely available to the general public

Article XVIII—(1) An individual who is a resident of one of the Contracting States and is temporarily present in the other Contracting State solely—

(*a*) as a student at a recognised university, college or school in that other Contracting State, or

(*b*) as a business apprentice, or

(*c*) as the recipient of a grant, allc [illegible] r award for the primary purpose of study or research from a [illegible] l, religious, charitable, scientific, literary or educational or [illegible] e former Contracting State,

in respect of the operation of mines, quarries, or other places of extraction of natural resources

Article VIII—Interest on bonds, securities, notes, debentures or any other form of indebtedness derived by a resident of one of the Contracting States from sources in the other Contracting State may be taxed in both the Contracting States

Article IX—Dividends paid by a company which is a resident of one of the Contracting States to a resident of the other Contracting State may be taxed in both the Contracting States

Article X—(1) Income from immovable property may be subjected to tax only in the Contracting State in which the property is situated

(2) For the purposes of paragraph (1), any royalty or other income derived from the operation of a mine, quarry, or other place of extraction of natural resources shall be regarded as income from immovable property

Article XI—Capital gains arising from the sale, exchange or transfer of a capital asset, whether movable or immovable, may be taxed only in the Contracting State in which the capital asset is situated at the time of such sale, exchange or transfer For this purpose, the situs of the shares of a company shall be deemed to be in the Contracting State where the company is incorporated

Article XII—(1) Remuneration paid by or out of the funds created by a Contracting State or any political sub-division thereof or a local authority therein to any individual in respect of services rendered to that State or sub-division or local authority shall be taxed only in that Contracting State

(2) The provisions of paragraph (1) shall not apply

(*a*) where remuneration is paid by a Contracting State or a political sub-division thereof or a local authority therein to any individual who is a national of the other Contracting State without being a national of the first-mentioned Contracting State, the remuneration in such a case being taxable only in the Contracting State in which the individual is resident;

(*b*) to remuneration paid in respect of services rendered in connection with any trade or business carried on for the purpose of profit by a Contracting State or a political sub-division thereof or a local authority therein referred to in paragraph (1)

(3) The provisions of paragraphs (1) and sub-paragraph (*a*) of paragraph (2) of this Article shall also apply to remuneration paid by the Reserve Bank of India, the Public Railways Authorities and the Postal Administration of India and the corresponding organisations in France

Article XIII—(1) Any pension or annuity derived from sources within one of the Contracting States by an individual who is a resident of the other Contracting State shall be taxable only in the first-mentioned Contracting State

(2) The term "pension", as used in this Article, means periodic payments made in consideration of services rendered or by way of compensation for injuries received

(3) The term "annuity", as used in this Article, means a stated sum payable periodically at stated times, during life or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth

Article XIV—(1) Subject to the provisions of Article XII, salaries, wages or other similar remuneration for services as an employee performed in one of the

(*b*) On interest mentioned in Article VIII derived from sources within India.

(*i*) in cases where such interest has been subjected to tax in India, France shall allow, against the French tax payable in respect of such interest and within the limit of such French tax, a credit of Indian tax payable in respect of such interest,

(*ii*) in cases where, owing to the operation of section 10(*15*)(*iv*) of the Income-tax Act, 1961, no Indian tax is payable on such interest, France shall reduce the French tax payable in respect of such interest by an amount equal to fifty per cent thereof

(*c*) On dividends, mentioned in Article IX, derived from sources within India, France shall allow, against the French tax payable in respect of such dividends and within the limit of such French tax, a credit of an amount equal to thirty per cent of the gross amount of such dividends In computing the French tax on such dividends in cases where the Indian tax thereon has been reduced or exempted by the operation of sections 80J, 80K and 80M of the Income-tax Act, 1961, it shall be deemed that the amount by which the Indian tax has been reduced or exempted has been actually paid in India

(4) Income which, in accordance with the provisions of the present Agreement, is not to be subjected to tax in any Contracting State, may be included in the amount of income to be taken into account for calculating the rate of tax to be imposed in that Contracting State

Article XX—The competent authorities of the Contracting States shall upon request, exchange such information (being information available under the respective taxation laws of the Contracting States) as is necessary for carrying out the provisions of the present Agreement Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of taxes which are the subject of the present Agreement No information shall, however, be exchanged which would disclose any trade, business, industrial or professional secret or any trade process

Article XXI—The nationals of one of the Contracting States shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other Contracting State in the same circumstances are or may be subjected In particular, the citizens of one Contracting State who are subjected to tax in the other Contracting State shall be entitled to the same extent as the citizens of that other Contracting State, to any exemption, deduction, credit or other allowance accorded in consideration of the family circumstances

Article XXII—(1) Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the present Agreement, he may, notwithstanding the remedies provided by the national laws of the Contracting States, present his case to the competent authority of the Contracting State of which he is a resident

(2) The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State with a view to the avoidance of taxation not in accordance with the present Agreement

(3) The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties arising as to the interpretation or application of the present Agreement

shall not be subjected to tax in that other Contracting State—

(*i*) on the remittances from abroad for the purposes of his maintenance, education, training, study or research, and

(*ii*) with respect to any amount representing remuneration for an employment in that other Contracting State if that employment is related with his studies or his training or if it is necessary for his maintenance, and

(*iii*) on the grant, allowance or award,

as the case may be

(2) An individual who is a resident of one of the Contracting States and is temporarily present in the other Contracting State for a period not exceeding one year as an employee of, or under contract with, an enterprise of the former Contracting State or an organisation referred to in paragraph (1)(*c*) above solely to acquire technical, professional or business experience from a person other than such enterprise or organisation, shall not be subjected to tax in that other Contracting State on the remuneration for such period in an amount not exceeding 12,000 new French Francs (or its equivalent sum in Indian currency at the official rate of exchange) including remuneration from such person in the other Contracting State

(3) An individual who is resident in one of the Contracting States and is temporarily present in the other Contracting State under arrangements with a Government in that other Contracting State or any agency thereof solely for the purpose of training, study or orientation shall not be subjected to tax in that other Contracting State on remuneration, received from abroad or paid in that other Contracting State for his services directly related to such training, study or orientation, in an amount not exceeding the sum of 15,000 new French Francs (or its equivalent sum in Indian currency at the official rate of exchange) during any taxable year

Article XIX—(1) The laws in force in either of the Contracting States will continue to govern the taxation of income in the respective Contracting States except where express provision to the contrary is made in the present Agreement However, a company which is a resident of India and has a permanent establishment in France and which is liable to the tax on income from movable capital under Article 109 2 of the General Code of Taxes of France shall not be charged to that tax on income exceeding the profits attributable to such permanent establishment in accordance with Article III of the present Agreement.

(2) Subject to the provisions of Article VI and paragraph (1) above, where, in the case of a resident of India, any income from sources within France is subjected to tax both in India and in France, India shall allow against the Indian tax payable in respect of such income and within the limit of such Indian tax, a credit of French tax payable in respect of such income, so, however, that where such resident is a company by which surtax is payable in India, the credit aforesaid shall be allowed in the first instance, against the income-tax payable by the company in India and, as to the balance, if any, against the surtax payable by it in India

(3) Subject to the provisions of Article VI and paragraph (1) above, in respect of income subject to tax in both the Contracting States, tax shall be determined in the case of a resident of France as follows

(*a*) On royalties mentioned in Article VII derived from sources within India and which have been subjected to tax in India, France shall allow, against the French tax payable in respect of such royalties and within the limit of such French tax, a credit of Indian tax payable in respect of such royalties

Paris,
26th March, 1969

Monsieur le Ministre,

The Agreement between the Governments of India and the Republic of France for the avoidance of double taxation in respect of taxes on income, being signed today, I have the honour, on behalf of my Government, to propose as follows

(1) Where a resident of one of the Contracting States fulfils an order for sale of machinery to a resident of the other Contracting State and it is incidental to the sale of the machinery that a person or persons employed by the resident of the first-mentioned Contracting State should proceed to the other Contracting State for assisting in the installation of the machinery therein, such activity shall not be deemed to constitute a permanent establishment unless it is carried on for a period exceeding three months or the expenses incurred on such activity are more than 10 per cent of the total sale price for the order

(2) (*a*) Where a person, who is a resident of India, visits France in connection with any activity under the terms of the Agreement, dated 7th June, 1966, concerning cultural, scientific and technical co-operation between the Government of India and the Government of the French Republic, he shall not be taxable in France in respect of the remuneration received by him in connection with such activity

(*b*) Where a person, who was domiciled in France, visits India in connection with any activity under the terms of the Agreement, dated 7th June, 1966, concerning cultural, scientific and technical co-operation between the Government of India and the Government of the French Republic, he shall not be taxable in India in respect of the remuneration received by him in connection with such activity In that case, the part of such remuneration received from French sources shall be subject to French income-tax

I shall be grateful if you confirm your agreement to the above proposals and that, in such case, this letter and your reply thereto shall be deemed to be part of the Agreement

Please accept, Monsieur le Ministre, the assurance of my highest consideration

D N Chatterjee

Monsieur Herve Alphand,
Secretary General,
Ministry of External Affairs, Paris

Paris,
26th March, 1969

Monsieur l'Ambassadeur,

By your letter of today's date, you, on behalf of the Government of India, informed me of the following —

"The Agreement between the Governments of India and the Republic of France for the avoidance of double taxation in respect of taxes on income, being signed today, I have the honour, on behalf of my Government, to propose as follows

(4) The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs

Article XXIII—(1) The present Agreement may be extended, either in its entirety or with necessary modifications, to overseas territories of the French Republic, which impose taxes substantially similar in character to those to which the present Agreement applies Any such extension shall take effect from such date and subject to such modifications and conditions (including conditions as to termination) as may be specified and agreed to between the Contracting States in notes to be exchanged through diplomatic channels

(2) Unless otherwise agreed to by both Contracting States, the termination of the present Agreement by one of the Contracting States under paragraph (3) of Article XXV shall also terminate the application of the present Agreement to any territory to which it has been extended under this Article

Article XXIV—The competent authorities of the two Contracting States may consult together as may be necessary to prescribe regulations necessary to carry into effect the present Agreement within the respective Contracting States They may communicate with each other directly for the purpose of giving effect to the present Agreement

Article XXV—(1) The present Agreement shall be approved in accordance with the laws in force in each of the two States It shall enter into force thirty days after the exchange of letters certifying that the proper procedure was fulfilled in each State The exchange of letters shall take place at New Delhi

(2) The present Agreement shall thereupon be applicable.

(*a*) in India, in respect of income derived during the "previous years" beginning on or after the first day of January of the calendar year in which the exchange of letters takes place,

(*b*) in France, in respect of income derived during the years of assessment beginning on or after the first day of January of the calendar year in which the exchange of letters takes place

(3) This Agreement shall continue in effect indefinitely but either of the Contracting States may, on or before the thirtieth day of June in any calendar year after 1971, give to the other Contracting State notice of termination, and in such event, the present Agreement shall cease to be effective

(*a*) in India, in respect of income derived during the "previous years" beginning on or after the first day of January of the calendar year next following the calendar year in which such notice is given,

(*b*) in France, in respect of income derived during the years of assessment beginning on or after the first day of January of the calendar year next following the calendar year in which such notice is given

In witness whereof the undersigned, duly authorised thereto, have signed the present Agreement

Done at Paris, on the 26th day of March, 1969, in duplicate in the French and Hindi languages, both texts being equally authentic

For the Government of India,
D N Chatterjee

For the Government of the French Republic,
Herve Alphand

AGREEMENT FOR AVOIDANCE OF DOUBLE TAXATION BETWEEN INDIA AND IRAN

(*Notification No G S R 284(E), dated 28th May 1973*)

Whereas the Government of India and the Imperial Government of Iran have concluded an Agreement through exchange of notes as set out in the Annexure hereto, for the avoidance of double taxation of income of enterprises operating aircraft,

Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (XLIII of 1961), and section 24A of the Companies (Profits) Surtax Act, 1964 (VII of 1964), the Central Government hereby directs that all the provisions of the said Agreement shall be given effect to in the Union of India

ANNEXURE

Agreed translation of the Note No 127/18, dated the 29th March, 1973, received from the Imperial Government of Iran by the Government of India

"The Imperial Ministry of Foreign Affairs presents its compliments to the Embassy of India and with reference to the discussions and corresponding notes exchanged regarding the reciprocal exemption of Indian and Iranian airlines from payment of income-tax has the honour to state

According to the Direct Tax Law of 19th March, 1967, foreign air companies may be exempted from payment of income-tax on a reciprocal basis, and in fact considering that no income-tax has been collected from Iranian air companies in India, the Iranian Government has to this date refrained from collecting income-tax from Indian air companies

Thus, as the provision of reciprocity prescribed in the Direct Tax Law has been in fact established, as long as the said provision is observed by the Indian Government, Indian air companies will be, as before, exempted from the payment of tax derived from the transportation of goods and passengers

It is, therefore, proposed that should the above be agreed to, this note and the Embassy's reply regarding the application and observance of reciprocity by the Government of India may be considered as a temporary agreement between the two parties in respect of exemption from payment of income-tax by the air companies of both parties "

Note No TEH/COM/203/6/70, dated the 1st April, 1973, issued by the Government of India to the Imperial Government of Iran in reply

"The Embassy of India presents its compliments to the Imperial Ministry of Foreign Affairs and in regard to the question of reciprocal exemption of Indian and Iranian airlines from payment of income-tax, has the honour to refer to their Note No 127/18, dated March 29, 1973, which reads as follows —

'The Imperial Ministry of Foreign Affairs presents its compliments to the Embassy of India and with reference to the discussions and corresponding notes exchanged regarding the reciprocal exemption of Indian and Iranian airlines from payment of income-tax has the honour to state

According to the Direct Tax Law of 19th March, 1967, foreign air companies may be exempted from payment of income-tax on a reciprocal basis, and in fact considering that no income-tax has been collected from Iranian air companies in

(1) Where a resident of one of the Contracting States fulfils an order for sale of machinery to a resident of the other Contracting State and it is incidental to the sale of the machinery that a person or persons employed by the resident of the first-mentioned Contracting State should proceed to the other Contracting State for assisting in the installation of the machinery therein, such activity shall not be deemed to constitute a permanent establishment unless it is carried on for a period exceeding three months or the expenses incurred on such activity are more than 10 per cent. of the total sale price for the order

(2) (*a*) Where a person, who is a resident of India, visits France in connection with any activity under the terms of the Agreement, dated 7th June, 1966, concerning cultural, scientific and technical co-operation between the Government of India and the Government of the French Republic, he shall not be taxable in France in respect of the remuneration received by him in connection with such activity.

(*b*) Where a person, who was domiciled in France, visits India in connection with any activity under the terms of the Agreement, dated 7th June, 1966, concerning cultural, scientific and technical co-operation between the Government of India and the Government of the French Republic, he shall not be taxable in India in respect of the remuneration received by him in connection with such activity In that case, the part of such remuneration received from French sources shall be subject to French income-tax "

I have the honour to inform you that this proposal meets with the approval of the Government of the French Republic It is, therefore, confirmed that your letter of today's date and my reply thereto shall form part of the Agreement

Please accept, Monsieur l'Ambassadeur, the assurance of my highest consideration

Herve Alphand

His Excellency Shri D N Chatterjee,
Ambassador of India, Paris

(8) [15]* * No order shall be made by the Income-tax Officer under sub-section (1) unless the previous approval of the Inspecting Assistant Commissioner of Income-tax has been obtained, and the Inspecting Assistant Commissioner shall not give his approval to any order proposed to be made by the Income-tax Officer until he has given the company concerned an opportunity of being heard

(9) Nothing contained in this section shall apply to any company in which the public are substantially interested or to a subsidiary company of such company if the whole of the share capital of such subsidiary company has been held by the parent company or by its nominees throughout the previous year

Explanation [16][*1*] —For the purposes of this section, a company shall be deemed to be a company in which the public are substantially interested—

(*a*) if it is a company owned by the Government or in which not less than forty per cent of the shares are held by the Government,

(*b*) if it is not a private company as defined in the Indian Companies Act, 1913 (VII of 1913), and

(*i*) its shares (not being shares entitled to a fixed rate of dividend, whether with or without a further right to participate in profits) carrying not less than fifty per cent of the voting power have been allotted unconditionally to, or acquired unconditionally by, and were throughout the previous year beneficially [17][held by the Government or a corporation established by a Central, State or Provincial Act or the public] (not including a company to which the provisions of this [18][section] apply)

Provided that in the case of any such company as is referred to in [19][clause (*ii*) of *Explanation 2*], this sub-clause shall apply as if for the words "not less than fifty per cent ", the words "not less than forty per cent " had been substituted,

(*ii*) the said shares were at any time during the previous year the subject of dealings in any recognised stock exchange in India or were freely transferable by the holder to other members of the public, and

(*iii*) the affairs of the company or the shares carrying more than fifty per cent of the total voting power were at no time during the previous year controlled or held by less than six persons, [20][and in computing the number of six persons aforesaid, the Government or any corporation established by a Central, State or Provincial Act or a company to which the provisions of this section do not apply shall not be taken into account, and persons who are relatives of one another and persons who are nominees of any other person together with that other person shall be treated as a single person, the expression "relative" in this context meaning husband, wife, lineal ascendant or descendant, brother or sister]

Provided that in the case of any such company as is referred to in [21][clause (*ii*) of *Explanation 2*], this clause shall apply as if for the words

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[15] "Except in cases where a decision is given by the Commissioner of Income-tax under sub-section (3) or the Board of Referees under sub-section (4)", omitted by s 7, F (No 2) Act, 1957, w e f 1-4-1957

[16] Inserted, *ibid*, w e f 1-4-1957

[17] Substituted for "held by the public", *ibid*, w e f 1-4-1957 (See p 67, f n 10)

[18] Substituted for "sub-section" by s 15, F Act, 1956, w e f 1-4-1956

[19] Substituted for "sub-section (4)" by s 7, F (No 2) Act, 1957, w e f 1-4-1957

[20] Substituted for "(persons who are related to one another as husband, wife, lineal ascendant or descendant, brother or sister, as the case may be, being treated as a single person and persons who are nominees of another person together with that other person being likewise treated as a single person)", *ibid*, w e f 1-4-1957 (See p 67, f n 10)

[21] Substituted for "sub-section (4)", *ibid*, w e f 1-4-1957

India, the Iranian Government has to this date refrained from collecting income-tax from Indian air companies

Thus, as the provision of reciprocity prescribed in the Direct Tax Law has been in fact established, as long as the said provision is observed by the Indian Government, Indian air companies will be, as before, exempted from the payment of tax derived from the transportation of goods and passengers

It is, therefore, proposed that should the above be agreed to, this note and the Embassy's reply regarding the application and observance of reciprocity by the Government of India may be considered as a temporary agreement between the two parties in respect of exemption from payment of income-tax by the air companies of both parties'

With reference to this proposal, the Embassy of India has the honour to inform the Imperial Ministry of Foreign Affairs that the Government of India accepts the terms of the foregoing text and considers that that note and this note will constitute an agreement between the two Governments for the avoidance of double taxation of income of enterprises operating aircraft, which shall enter into force on this date, pending the conclusion of a general agreement for the avoidance of double taxation of income from various sources including civil aviation

In accord with the purpose of the notes now exchanged, the Embassy of India has the honour to stress the fact that acceptance by the Government of India is based on the understanding that the exemption in respect of income derived from operation of aircraft in international traffic by Indian airline companies and Iranian airline companies, shall be on the basis of reciprocity and shall apply from the beginning of operation of these airlines in Iran and India respectively and that in case any tax on the aforesaid income has been recovered by either Government as of the date of this agreement, the same shall be refunded by that Government

The Embassy of India avails itself of this opportunity to renew to the Imperial Ministry of Foreign Affairs the assurances of its highest consideration"

AGREEMENT FOR AVOIDANCE OF DOUBLE TAXATION BETWEEN INDIA AND ITALY

(Notification No G S R 201(E), dated 16th April 1975)

Whereas the annexed Agreement between the Government of India and the Government of Italy for the avoidance of double taxation of income of enterprises operating aircraft has been ratified and the instruments of ratification exchanged, as required by paragraph (1) of Article V of the said Agreement,

Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (XLIII of 1961), and section 24A of the Companies (Profits) Surtax Act, 1964 (VII of 1964), the Central Government hereby directs that all the provisions of the said Agreement shall be given effect to in the Union of India

ANNEXURE

Agreement between the Government of India and the Government of Italy for the avoidance of double taxation of income of enterprises operating aircraft

Whereas the Government of India and the Government of Italy desire to conclude an agreement for the avoidance of double taxation of income of enterprises operating aircraft chargeable to tax in the said countries in accordance with their respective laws,

Now, therefore, the said two Governments do hereby agree as follows

Article I—(1) The taxes to which this Agreement shall apply are

(*a*) in the case of India

(*i*) the income-tax including any surcharge on income-tax imposed under the Income-tax Act, 1961 (XLIII of 1961), as amended, and

(*ii*) the surtax imposed under the Companies (Profits) Surtax Act, 1964 (VII of 1964), as amended,

(hereinafter referred to as "Indian tax"),

(*b*) in the case of Italy

(*i*) the tax on income from movable wealth (imposta sui redditi di ricchezza mobile),

(*ii*) the complementary tax (imposta complementare progressiva sul reddito),

(*iii*) the tax on companies in so far as the tax is charged on income and not on capital (imposta sulle societa, per la parte che grava sul reddito e non sul patrimonio), and

(*iv*) the taxes on income imposed on behalf of provinces, municipalities, chambers of commerce (imposte provinciali, comunali, e camerali sul reddito),

(hereinafter referred to as "Italian tax")

(2) This Agreement shall also apply to any identical or substantially similar taxes which are imposed after the date of the signature of this Agreement in addition to, or in place of, the existing taxes

Article II—(1) In this Agreement, unless the context otherwise requires

(*a*) the term "India" shall have the meaning assigned to it in Article 1 of the Constitution of India,

(*b*) the term "Italy" means the Italian Republic,

(*c*) the terms "a Contracting State" and "the other Contracting State" mean India or Italy, as the context requires,

(*d*) the term "tax" means "Indian tax" or "Italian tax", as the context requires,

(*e*) the term "enterprise of a Contracting State" means

(*i*) an airline designated by the Government of that State in pursuance of the Agreement dated the 16th July, 1959, as may be amended or revised from time to time, between the Government of India and the Government of Italy relating to air services, or

(*ii*) an airline which is authorised by the Government of that State by a general or special arrangement between the two Contracting States to operate chartered flights between or beyond their territories,

(*f*) the expression "operation of aircraft" means a business of transportation by air of persons, live-stock, goods or mail, carried on by the owners or leasers or charterers of aircraft, including the sale of tickets for such transportation on behalf of other enterprises and any other activity directly connected with such transportation

(2) In the application of the provisions of this Agreement by one of the Contracting States, any term used but not defined herein shall, unless the context otherwise requires, have the meaning which it has under the laws in force in that State relating to the taxes to which this Agreement applies

Article III—(1) Income derived from the operation of aircraft in international traffic by an enterprise of one of the Contracting States shall be exempt from tax in the other Contracting State

(2) Paragraph (1) shall likewise apply in respect of participations in pools of any kind by enterprises engaged in air transport

Article IV—The laws in force in either of the Contracting States will continue to govern the assessment and taxation of income in the Contracting States except where express provision to the contrary is made in this Agreement

Article V—(1) This Agreement shall be ratified and the instruments of ratification shall be exchanged at New Delhi as soon as possible

(2) This Agreement shall enter into force on the date of the exchange of the instruments of ratification and its provisions shall have effect

(*a*) in India, in respect of income assessable for the year of assessment commencing on or after the 1st day of April, 1960,

(*b*) in Italy, in respect of income assessable for the year of assessment commencing on or after the 1st day of January, 1960

Article VI—This Agreement shall continue in effect indefinitely but either of the Contracting States may, within the 30th day of June of any calendar year after the year 1973, give notice of termination to the other Contracting State and in such event this Agreement shall cease to be effective

(*a*) in India in respect of income assessable for the year of assessment commencing on or after the 1st day of April of the calendar year following that year in which the notice is given,

(*b*) in Italy, in respect of income assessable for the year of assessment commencing on or after the 1st day of January of the calendar year following that year in which the notice is given

In witness whereof the undersigned, duly authorised thereto, have signed the present Agreement

Done at Rome, on the 3rd day of February, 1970, in two originals, each in the English and Italian languages, both texts being equally authoritative

For the Government of India,
Jai Kumar Atal

For the Government of Italy,
Dr. Cesidio Guazzaroni

Rome,
3rd February, 1970

Excellency,

With reference to the Agreement which is being signed today between the Government of India and the Government of Italy for the avoidance of double taxation of income of enterprises operating aircraft, I have the honour to make the following proposals on behalf of the Government of India

Since the above-mentioned Agreement envisages the exemption from taxation in either Contracting State, in the matter of income derived from international air transport by an enterprise belonging to the other Contracting State, and since such exemption is to be effective in India for the assessment year 1960-61 and subsequent years, and in Italy for the assessment year 1960 and subsequent years, the two Contracting States agree as follows

(1) Alitalia being an enterprise of Italy, any taxes paid by it or any deposits made by it towards its tax dues in India in respect of its income relating to any assessment year for which it is exempt from tax in accordance with the Agreement aforesaid shall be refunded by the Government of India to Alitalia on an application in this behalf by Alitalia within six months from the date on which the Agreement aforesaid enters into force, and any proceeding already initiated for the taxation of such income shall be terminated

(2) Air India being an enterprise of India, any taxes paid by it or any deposits made by it towards its tax dues in Italy in respect of its income relating to any assessment year for which it is exempt from tax in accordance with the Agreement aforesaid shall be refunded by the Government of Italy to Air India on an application in this behalf by Air India within six months from the date on which the Agreement aforesaid enters into force, and any proceeding already initiated for the taxation of such income shall be terminated

I shall be grateful if Your Excellency will let me know if he agrees on what has been stated above, and, in such case, this note and the reply Your Excellency will kindly send me, shall be deemed to be part of the Agreement aforesaid

Please accept, Your Excellency, the assurances of my highest consideration

Jai Kumar Atal

To

Minister Plenipotentiary
Dr Cesidio Guazzaroni,
Rome

Rome,
3rd February, 1970

Excellency,

I have the honour to acknowledge receipt of your letter of today reading as follows

"With reference to the Agreement which is being signed today between the Government of India and the Government of Italy for the avoidance of double taxation of income of enterprises operating aircraft, I have the honour to make the following proposals on behalf of the Government of India

Since the above-mentioned Agreement envisages the exemption from taxation in either Contracting State, in the matter of income derived from international air transport by an enterprise belonging to the other Contracting State, and since such exemption is to be effective in India for the assessment year 1960-61 and subsequent years, and in Italy for the assessment year 1960 and subsequent years, the two Contracting States agree as follows

(1) Alitalia being an enterprise of Italy, any taxes paid by it or any deposits made by it towards its tax dues in India in respect of its income relating to any assessment year for which it is exempt from tax in accordance with the Agreement aforesaid shall be refunded by the Government of India to Alitalia on an application in this behalf by Alitalia within six months from the date on which the Agreement aforesaid enters into force, and any proceeding already initiated for the taxation of such income shall be terminated

(2) Air India being an enterprise of India, any taxes paid by it or any deposits made by it towards its tax dues in Italy in respect of its income relating to any assessment year for which it is exempt from tax in accordance with the Agreement aforesaid shall be refunded by the Government of Italy to Air India on an application in this behalf by Air India within six months from the date on which the Agreement aforesaid enters into force, and any proceeding already initiated for the taxation of such income shall be terminated

I shall be grateful if Your Excellency will let me know if he agrees on what has been stated above, and, in such case, this note and the reply Your Excellency will kindly send me, shall be deemed to be part of the Agreement aforesaid."

I have the honour to inform you that my Government agrees on the foregoing.

Please accept, Your Excellency, the assurances of my highest consideration.

Dr. Cesidio Guazzaroni

To

His Excellency Jai Kumar Atal,
Ambassador of India,
Rome

AGREEMENT FOR AVOIDANCE OF DOUBLE TAXATION BETWEEN INDIA AND BELGIUM

(*Notification No G S R 323(E), dated 6th June 1975*)

Whereas the annexed Agreement between the Government of India and the Government of Belgium for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income has been approved in accordance with the laws in force in each of the two Contracting States, and letters to this effect have been exchanged as required by paragraph (1) of Article XXIX of the said Agreement,

Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (XLIII of 1961), and section 24A of the Companies (Profits) Surtax Act, 1964 (VII of 1964), the Central Government hereby directs that all the provisions of the said Agreement shall be given effect to in the Union of India

ANNEXURE

Agreement between the Government of India and the Government of Belgium for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income

The Government of India and the Government of Belgium,

Desiring to conclude an agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

Have agreed as follows

CHAPTER I—SCOPE OF THE AGREEMENT

Article I Personal scope—This Agreement shall apply to persons who are residents of one or both of the Contracting States

Article II Taxes covered—(1) This Agreement shall apply to taxes on income imposed on behalf of each Contracting State or of its political sub-divisions or local authorities, irrespective of the manner in which they are levied

(2) There shall be regarded as taxes on income all taxes imposed on total income or on elements of income including taxes on gains from the sale, exchange or transfer of movable or immovable property and taxes on the total amounts of wages or salaries paid by enterprises

(3) The existing taxes to which this Agreement shall apply are

(*a*) in the case of India

(*i*) the income-tax and any surcharge on income-tax imposed under the Income-tax Act, 1961 (XLIII of 1961), and

(*ii*) the surtax imposed under the Companies (Profits) Surtax Act, 1964 (VII of 1964),

(hereinafter referred to as "Indian tax"),

(*b*) in the case of Belgium

(*i*) the individual income-tax (l'impot des personnes physiques),

(*ii*) the corporate income-tax (l'impot des societęs),

(*iii*) the income-tax on legal entities (l'impot des personnes morales),

(*iv*) the income-tax on non-residents (l'impot des non-residents),

(v) the prepayments and additional prepayments (les precomptes et complements de precompte), and

(vi) the surcharges (decimes et centimes additionnels) on any of the taxes referred to in (i) to (v) above including the communal supplement to the individual income-tax (taxe communale additionelle a l'impot des personnes physiques),

(hereinafter referred to as "Belgian tax")

(4) This Agreement shall also apply to any identical or substantially similar tax which is imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes The competent authorities of the Contracting States shall, from time to time, notify to each other any significant changes which have been made in their respective taxation laws

CHAPTER II—DEFINITIONS

Article III General definitions—(1) In this Agreement, unless the context otherwise requires

(*a*) the term "India" means the territory of India, and includes any area adjacent to the territorial waters of India which, in accordance with international law, has been or may hereafter be designated under the laws of India as an area within which the rights of India with respect to the sea bed and sub-soil and their natural resources may be exercised,

(*b*) the term "Belgium" means the territory of the Kingdom of Belgium, it includes any area outside the Belgian national sovereignty which under the Belgian laws concerning the Continental Shelf, and in accordance with international law, has been or may hereafter be designated as an area within which the rights of Belgium with respect to the sea bed and sub-soil and their natural resources may be exercised,

(*c*) the terms "a Contracting State" and "the other Contracting State" mean India or Belgium as the context requires,

(*d*) the term "competent authority" means, in the case of India, the Central Government in the Ministry of Finance (Department of Revenue and Insurance), and in the case of Belgium, the competent authority according to Belgian legislation,

(*e*) the term "tax" means "Indian tax" or "Belgian tax" as the context requires,

(*f*) the term "person" includes individuals, companies and all other entities which are treated as taxable units under the tax laws in force in the Contracting State of which they are resident,

(*g*) the term "company" means in the case of India, any entity which is a company or which is treated as a company under the Indian tax law, and in the case of Belgium, any entity which is a company or which is treated as a body corporate under the Belgian tax law,

(*h*) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean, respectively, an industrial or commercial enterprise or undertaking carried on by a resident of a Contracting State and any such enterprise or undertaking carried on by a resident of the other Contracting State

(2) In the application of the provisions of this Agreement by a Contracting State, any term used but not defined herein shall, unless the context otherwise requires, have

the meaning which it has under the laws in force in that State relating to the taxes to which this Agreement applies

Article IV Fiscal domicile—(1) For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the law of that State, is a resident of that State for the purposes of taxation therein

(2) Where by reason of the provisions of paragraph (1) an individual is a resident of both the Contracting States, then his residential status for the purposes of this Agreement shall be determined in accordance with the following rules

(*a*) He shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him If he has a permanent home available to him in both the Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (hereinafter referred to as his "centre of vital interests")

(*b*) If the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode

(*c*) If he has an habitual abode in both the Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national

(*d*) If he is a national of both the Contracting States or of neither of them, the competent authorities of the Contracting States shall determine the question by mutual agreement

(3) Where by reason of the provisions of paragraph (1), a person other than an individual is a resident of both the Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated

Article V Permanent establishment—(1) For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on

(2) A "permanent establishment" shall include especially

(*a*) a place of management,

(*b*) a branch,

(*c*) an office,

(*d*) a factory,

(*e*) a workshop or a warehouse,

(*f*) a mine, a quarry, an oilfield or other place of extraction of natural resources,

(*g*) a building site or construction or assembly project or supervisory activities in connection therewith, where such site, project or activity continues for a period of more than six months, or where such project or activity, being incidental to the sale of machinery or equipment, continues for a period not exceeding six months and the charges payable for the project or activity exceed 10 per cent of the sale price of the machinery or equipment

(3) The term "permanent establishment" shall not be deemed to include

(*a*) the use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise;

(*b*) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage or display,

(*c*) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise

(*d*) the maintenance of a fixed place of business solely for scientific research, for the enterprise

(4) Subject to the provisions of paragraph (5), a person acting in a Contracting State on behalf of an enterprise of the other Contracting State shall be deemed to be a permanent establishment of that enterprise in the first-mentioned State if

(*i*) he has and habitually exercises in that State an authority to conclude contracts on behalf of the enterprise, unless his activities are limited to the purchase of goods or merchandise for that enterprise, or

(*ii*) he habitually maintains in the first-mentioned Contracting State a stock of goods or merchandise belonging to the enterprise from which the person regularly delivers goods or merchandise on behalf of the enterprise, or

(*iii*) he habitually secures orders in the first-mentioned Contracting State, exclusively or almost exclusively, for the enterprise itself, or for the enterprise and other enterprises which are controlled by it or have a controlling interest in it

(5) An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, a general commission agent or other agent of a genuinely independent status acting in the ordinary course of his business

(6) The fact that a company, which is a resident of a Contracting State, has a subsidiary company which either is a resident of the other Contracting State or carries on a trade or business in that other Contracting State (whether through a permanent establishment or otherwise) shall not of itself constitute either company a permanent establishment of the other

Chapter III—Taxation of income

Article VI Income from immovable property.—(1) Income from immovable property may be taxed in the Contracting State in which such property is situated

(2) The term "immovable property" shall be defined in accordance with the law and usage of the Contracting State in which the property in question is situated The term shall in any case include property accessory to immovable property, live-stock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits sources and other natural resources, ships and aircraft shall not be regarded as immovable property.

(3) The provisions of paragraph (1) shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

(4) The provisions of paragraphs (1) and (3) shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of professional services

Article VII Business profits—(1) Industrial or commercial profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise is engaged in trade or business in the other Contracting State through a permanent establishment situated therein If the enterprise is engaged in trade or business as aforesaid, the industrial or commercial profits of the enterprise may be taxed in the other State but only so much of such profits as are attributable to that permanent establishment

(2) Where an enterprise of a Contracting State is engaged in trade or business in the other Contracting State through a permanent establishment situated therein, there shall be attributed to such permanent establishment the industrial or commercial profits which it might be expected to derive if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment

(3) In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the business of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment Likewise, no account shall be taken in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the head office of the enterprise or any of its other offices

(4) In so far as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph (2) or paragraph (3) shall preclude such Contracting State from determining the profits to be taxed by such an apportionment as may be customary, the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles laid down in this Article

(5) No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the purpose of export to the enterprise of which it is the permanent establishment.

(6) The term "industrial or commercial profits" means income derived by an enterprise from the conduct of a trade or business, but does not include income in the form of rents, royalties, fees for technical services, interest, dividends, capital gains, remuneration for labour or personal (including professional) services or income from the operation of ships or aircraft The items of income so excluded shall be dealt with in accordance with the provisions of the other Articles of this Agreement

Article VIII Air transport and shipping.—(1) Income derived from the operation of aircraft in international traffic by an enterprise of a Contracting State shall not be taxed in the other Contracting State

"more than fifty per cent", the words "more than sixty per cent." had been substituted]

[22][*Explanation 2.*—For the purposes of this section, statutory percentage means,—

(*i*) in the case of a company whose business consists wholly or mainly in the dealing in or holding of investments . [23][90%]

(*ii*) in the case of an Indian company whose business consists wholly in the manufacture or processing of goods or in mining or in the generation or distribution of electricity or any other form of power [24][50%]

(*iii*) in the case of an Indian company, a part only of whose business consists in any of the activities specified in clause (*ii*)—

(*a*) in relation to the said part of the company's business [24][50%]

(*b*) in relation to the remaining part of the company's business—

(1) if it is a company which satisfies the conditions specified in sub-clause (*a*) of clause (*iv*) . 90%

(2) in any other case [25][65%]

the said percentages being applied separately with reference to the amounts of profits and gains attributable to the two parts of the company's business aforesaid as if the said amounts were respectively the total income of the company in relation to each of its parts, the amount of dividends and taxes also being similarly apportioned, for the purposes of sub-section (1)

(*iv*) in the case of any other company not referred to in the preceding clauses,—

(*a*) where the accumulated profits and reserves (including the amounts capitalised from the earlier reserves) representing accumulations of past profits which have not been the subject of an order under sub-section (1) exceed—either the aggregate of—

(1) the paid-up capital of the company exclusive of the capital, if any, created out of its profits and gains which have not been the subject of an order under sub-section (1),

(2) any loan capital which is the property of the shareholders,

or the actual cost of the fixed assets of the company, whichever of these is greater . 90%

(*b*) where sub-clause (*a*) does not apply .. [25][65%].]

R 20B [1][**23B. Power to make provisional assessment in advance of regular assessment.**—(1) The Income-tax Officer may, at any time after the receipt of a return made under section 22, proceed to make in a summary manner, a provisional assessment of the tax payable by the assessee, on the basis of his return and the accounts and documents, if any, accompanying it, after giving due effect to (i) the allowance referred to in

[22] Inserted by s 7, F (No 2) Act, 1957, w e f 1-4-1957 (See p 67, f n 10)
[23] Substituted for "100%" by s 11, F Act, 1960, w e f 1-4-1960
[24] Substituted for "45%" by s 11, F Act, 1959, w e f 1-4-1960
[25] Substituted for "60%", *ibid*, w e f 1-4-1960
[1] Inserted by s 17, Taxation Laws (Extension to Merged States and Amendment) Act, 1949

literary, artistic or scientific works (including motion picture films, or films or tapes for radio or television broadcasting), patents, designs or models, plans, secret processes or formulae, trade-marks or other like property or rights, or for industrial, commercial or scientific equipment, but does not include royalties or other amounts paid in respect of the operation of mines or quarries or of the extraction or removal of natural resources, and does not include income referred to in Article XIII

Article XIII Fees for technical services—Income derived by an enterprise of a Contracting State from technical services rendered to an enterprise of the other Contracting State may be taxed in that other Contracting State only in so far as such income is attributable to activities actually performed in that other Contracting State. In computing such income, there shall be allowed as deductions the expenses incurred in that other Contracting State in connection with the activities performed in that Contracting State.

Article XIV Capital gains—(1) Subject to the provisions of paragraph (3), gains from the sale, exchange or transfer of a capital asset being immovable property, as defined in paragraph (2) of Article VI, or from the sale, exchange or transfer of any movable property, whether tangible or intangible, may be taxed in the Contracting State in which such property is situated immediately before such sale, exchange or transfer

(2) For the purpose of this Article, the situs of the shares in a company shall be deemed to be in the Contracting State in which the company is incorporated

(3) Capital gains derived from the sale, exchange or transfer of a capital asset being a ship or aircraft may be taxed only in the Contracting State in which such ship or aircraft is registered

Article XV Independent personal services—(1) Income derived by a resident of Belgium in respect of professional services rendered or other independent activities of a similar character performed in India may be taxed in India only if he is present in India for a period or periods exceeding in the aggregate 183 days during the relevant "previous year"

(2) Income derived by a resident of India in respect of professional services rendered or other independent activities of a similar character performed in Belgium may be taxed in Belgium only if he is present in Belgium for a period or periods exceeding in the aggregate 183 days during the relevant taxable period

(3) The term "professional services" includes independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants

Article XVI Dependent personal services—(1) Subject to the provisions of Articles XVII, XIX, XX, XXI and XXII, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State

(2) Notwithstanding the provisions of paragraph (1), remuneration derived by a resident of Belgium in respect of an employment exercised in India shall not be taxed in India if

(*a*) he is present in India for a period or periods not exceeding in the aggregate 183 days during the relevant "previous year",

(*b*) the remuneration is paid by, or on behalf of, an employer who is not a resident of India,

(2) Paragraph (1) shall likewise apply in respect of participations in pools of any kind by enterprises engaged in air transport

(3) Income of an enterprise of a Contracting State derived from the other Contracting State from the operation of ships in international traffic may be taxed in that other Contracting State to the extent of one-half of such income and the other half of such income shall be taxable only in the first-mentioned Contracting State Such income shall be the portion of the world income as computed by the first-mentioned Contracting State, which bears to that world income the same proportion as the receipts from the transportation of passengers, live-stock or goods shipped from ports in that other Contracting State bear to the world receipts from the operation of ships.

(4) Paragraph (3) shall not apply to profits arising as a result of coastal traffic.

Article IX *Associated enterprises*—Where

(*a*) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

(*b*) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly

Article X *Dividends*—Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in both the Contracting States

Article XI *Interest*—(1) Interest on bonds, securities, notes, debentures or any other form of indebtedness, arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in both the Contracting States

(2) Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political sub-division, a local authority or a resident of that State Where, however, the person paying the interest whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated

Article XII *Royalties*—(1) Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in both the Contracting States

(2) Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political sub-division, a local authority or a resident of that State Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

(3) The term "royalties" as used in this Article means any royalties, rentals or other amounts paid as consideration for the use of, or the right to use, copyrights of

Contracting State or of a university or other recognised educational institution situated in that other Contracting State, visits such other Contracting State for the primary purpose of teaching or engaging in research, or both, at a university or other recognised educational institution shall not be subject to tax by that other Contracting State on his income from personal services for such teaching or research for a period not exceeding 24 months from the date of his arrival in that other Contracting State

(2) This Article shall not apply to income from personal services for research if such research is undertaken primarily for the private benefit of a specific person or persons

(3) For the purposes of this Article and Article XXII, an individual shall be deemed to be a resident of a Contracting State if he is a resident of that Contracting State in the year in which he visits the other Contracting State or in the year immediately preceding that year

Article XXII Students—(1) An individual who is a resident of a Contracting State and visits the other Contracting State solely

(*a*) as a student at a university, college or other recognised educational institution in that other Contracting State, or

(*b*) as a business apprentice, or

(*c*) for the purpose of study or research, as a recipient of a grant, allowance or award, from a governmental, religious, charitable, scientific or educational organisation,

shall be exempt from tax in that other Contracting State

(*i*) on all remittances from abroad for the purposes of maintenance, education or training,

(*ii*) on the grant, allowance or award, and

(*iii*) in respect of the amount, representing remuneration for an employment in that other Contracting State, if such remuneration does not exceed 100,000 Belgian Francs or its equivalent in Indian Rupees, as the case may be, in any year

(2) An individual who is a resident of a Contracting State and who visits the other Contracting State for a period not exceeding one year as an employee of, or under contract with, an enterprise of the first-mentioned Contracting State or an organisation referred to in paragraph (1) for the primary purpose of acquiring technical, professional or business experience from a person other than such enterprise or organisation shall be exempt from tax in that other Contracting State in respect of remuneration for an employment in that other Contracting State for such period, if such remuneration does not exceed 120,000 Belgian Francs or its equivalent in Indian Rupees, as the case may be, in any year

CHAPTER IV—ELIMINATION OF DOUBLE TAXATION

Article XXIII—(1) The laws in force in either of the Contracting States will continue to govern the assessment and taxation of income in the respective Contracting States except where express provision to the contrary is made in this Agreement

(2) Where a person who is a resident of India derives income which, in accordance with the provisions of Chapter III of this Agreement, may be taxed in Belgium, India shall, subject to the provisions of sub-paragraph (*a*) of paragraph (4), exempt such income from its tax but may, in calculating the tax on the remaining income of that person, apply the rate of tax which would have been applicable if the exempted income had not been so exempted

(c) the remuneration is subject to Belgian tax, and

(d) the remuneration is not deducted in computing profits of an enterprise chargeable to Indian tax

(3) Notwithstanding the provisions of paragraph (1), remuneration derived by a resident of India in respect of an employment exercised in Belgium shall not be taxed in Belgium if

(a) he is present in Belgium for a period or periods not exceeding in the aggregate 183 days during the relevant taxable period,

(b) the remuneration is paid by, or on behalf of, an employer who is not a resident of Belgium,

(c) the remuneration is subject to Indian tax, and

(d) the remuneration is not deducted in computing profits of an enterprise chargeable to Belgian tax

(4) Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft operated by an enterprise of a Contracting State in international traffic may be taxed only in that Contracting State

Article XVII Directors' fees—Directors' fees and similar payments (not being remuneration for the discharge of day-to-day functions of a managerial or technical nature) derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other Contracting State

Article XVIII Artistes and athletes—Notwithstanding anything contained in Articles XV and XVI, income derived by public entertainers, such as theatre, motion picture, radio or television artistes and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised

Article XIX Pensions—(1) Any pension (including an annuity) other than a pension referred to in Article XX derived by a resident of a Contracting State from sources within the other Contracting State in consideration of past employment may be taxed in such other Contracting State

(2) The term "annuity" means a stated sum payable periodically at stated times, during life or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth

Article XX Governmental functions—(1) Remuneration or pensions paid by, or out of funds created by, a Contracting State, or a political sub-division or a local authority thereof to any individual, being a national of that Contracting State, in respect of services rendered to that Contracting State or political sub-division or local authority thereof in the discharge of governmental functions shall be exempt from tax in the other Contracting State

(2) The provisions of Articles XVI, XVII and XIX shall apply to remuneration or pensions in respect of services in connection with any trade or business carried on by either of the Contracting States or a political sub-division or a local authority thereof for purposes of profit

Article XXI Teachers and researchers—(1) An individual who is a resident of a Contracting State and who, at the invitation of the Government of the other

(*b*) all legal persons, partnerships and associations deriving their status as such from the law in force in that Contracting State.

(3) The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities in the same circumstances and under the same conditions

This provision shall not be construed as preventing Belgium from charging the total amount of profits of a permanent establishment in Belgium of a company being a resident of India or of an entity having its place of effective management in India at the rate of tax provided by the Belgian law, but this rate may not—before the surcharges referred to in paragraph (3)(*b*)(*vi*) of Article II—exceed the maximum rate applicable to the whole or a portion of the profits of companies which are residents of Belgium

(4) Nothing contained in this Article shall be construed as obliging a Contracting State to grant to persons not resident in that State any personal allowances, reliefs or reductions for tax purposes which are by law available only to persons who are so resident

(5) Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected in the same circumstances and under the same conditions

(6) In this Article, the term "taxation" means taxes of every kind as specified in this Agreement

Article XXV Mutual agreement procedure—(1) Where a taxpayer considers that the action of the taxation authorities of one or both of the Contracting States has resulted or will result for him in double taxation not in accordance with the provisions of this Agreement, he may, notwithstanding the remedies provided by the laws of those Contracting States, address to the competent authority of the Contracting State of which he is a resident an application in writing stating the grounds for claiming revision of the incorrect taxation The said application must be submitted before the expiry of a period of two years from the notification of liability to or the deduction at source of the second charge to tax

(2) Should the taxpayer's claim be deemed worthy of consideration, the competent authority of the Contracting State to which the claim is made shall endeavour to come to an agreement with the competent authority of the other Contracting State with a view to the avoidance of taxation not in accordance with this Agreement

(3) The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties arising as to the application of the Agreement

(4) The competent authorities of the Contracting States may communicate with each other directly for the purpose of giving effect to the provisions of this Agreement

Article XXVI Exchange of information—(1) The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or for the prevention of fraud or for the administration of statutory provisions against legal avoidance in relation to the taxes which

(3) (*a*) Where a person who is a resident of Belgium derives income which, in accordance with the provisions of Chapter III of this Agreement, may be taxed in India, Belgium shall, subject to the provisions of sub-paragraphs (*b*) and (*c*) of this paragraph and sub-paragraph (*b*) of paragraph (4), exempt such income from its tax but may, in calculating the tax on the remaining income of that person, apply the rate of tax which would have been applicable if the exempted income had not been so exempted

(*b*) (*i*) Where a company which is a resident of Belgium, owns shares in a company which is a resident of India, the dividends paid thereon to the former company shall be exempt in Belgium from the tax referred to in paragraph (3)(*b*)(*ii*) of Article II to the extent that exemption would have been accorded under Belgian law if the two companies had been residents of Belgium

(*ii*) A company which is a resident of Belgium and which, during the whole of an accounting period of a company which is a resident of India and is chargeable to Indian tax, has held the direct ownership of shares in the latter company shall also be exempted from the prepayment on income from movable property (precompte mobilier) chargeable in accordance with Belgian law on the dividends on those shares, provided that it so requests in writing not later than the time limited for the submission of its annual return for corporate tax, on the redistribution to its own shareholders of the dividends so exempted, those dividends may not be deducted from dividends distributed which are subject to the prepayment on income from movable property This provision shall not apply when the first-mentioned company has elected that its profits be charged to the individual income-tax

(*c*) Where a resident of Belgium receives income by way of dividends referred to in Article X [not being dividends covered by sub-paragraph (*b*) of this paragraph] or interest referred to in Article XI or royalties referred to in Article XII of this Agreement, Belgium shall allow, against the Belgian tax chargeable on such income, a credit in respect of tax chargeable in India on such income, whether actually charged or spared The credit to be so allowed shall be such proportion of the foreign income as is provided for in Belgian law, however, the credit shall in no case be less than 15 per cent of the gross amount of dividends, interest or royalties so received after deduction of Indian tax, if any

(4) (*a*) In a case to which paragraph (2) of this Article applies, Indian tax may be charged on income chargeable to Belgian tax to the extent that such income has not been charged to tax in Belgium for any taxable period because of the set off of loss carried forward from an earlier taxable period, where such loss is deducted in computing the taxable income in India for any year

(*b*) In a case to which sub-paragraph (*a*) of paragraph (3) of this Article applies, Belgian tax may be charged on income chargeable to Indian tax to the extent that such income has not been charged to tax in India for any assessment year because of the set off of loss carried forward from an earlier assessment year, where such loss is deducted in computing the taxable income in Belgium for any year

CHAPTER V—SPECIAL PROVISIONS

Article XXIV Non-discrimination—(1) The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances and under the same conditions are or may be subjected

(2) The term "nationals of a Contracting State" means

(*a*) all individuals possessing the nationality of that Contracting State,

through the diplomatic channels, written notice of termination, provided that such notice shall be given only on or before the 30th day of June in any calendar year and in such event, this Agreement shall cease to be effective

(*a*) in India, as respects income derived during any "previous year" beginning on or after the 1st day of January of the calendar year next following that in which the notice is given,

(*b*) in Belgium

(*i*) as respects all tax due at source on income credited or payable on or after the 1st day of January of the calendar year next following that in which the notice is given,

(*ii*) as respects all tax other than tax due at source on income derived during any taxable period ending on or after the 31st day of December of the calendar year next following that in which the notice is given

In witness whereof the undersigned, duly authorised thereto, have signed the present Agreement

Done in duplicate at Brussels this 7th day of February, 1974, in the Hindi, English, French and Netherlands languages, all the four texts having equal authenticity

For the Government of India,
K B Lall

For the Government of Belgium,
Van Elslande

PROTOCOL

The Government of India and the Government of Belgium,

Having entered into an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

Have agreed, at the time of signing the said Agreement, on the following provisions which shall constitute an integral part thereof

(*a*) For the purposes of paragraph (1) of Article VIII, interest on funds directly connected with the operation of aircraft in international traffic shall be regarded as income from the operation of such aircraft, and the provisions of Article XI shall not apply in relation to such interest

Further, notwithstanding the provisions of Article XXIX, the provisions of paragraphs (1) and (2) of Article VIII shall have effect from the first day of January, 1967.

(*b*) The provisions of paragraph (3) of Article VIII shall not, in the case of India, affect the application of the provisions in sub-sections (1) to (6) of section 172 of the Income-tax Act, 1961, to the assessment of profits derived by a resident of Belgium from occasional shipping or tramp steamers provided that where such resident claims, in accordance with the provisions of sub-section (7) of the said section 172, an adjustment of his tax liability in India on the basis of his total income of the previous year in which the date of departure of the ship from the Indian port falls, the provisions of paragraph (3) of Article VIII of the Agreement will be applied

(*c*) The provisions of sub-paragraphs (*b*) and (*c*) of paragraph (3) of Article XXIII shall not apply in relation to dividends, interest or royalties arising in India to a resident of Belgium where the holding by virtue of which the dividends

are the subject of this Agreement Any information so exchanged shall be treated as secret but may be disclosed to persons (including a court or administrative body) concerned with the assessment, collection, enforcement or prosecution in respect of the taxes which are the subject of this Agreement

(2) In no case shall the provisions of paragraph (1) be construed so as to impose on a Contracting State the obligation

(*a*) to carry out administrative measures at variance with the laws or administrative practice of that or of the other Contracting State,

(*b*) to supply particulars which are not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State,

(*c*) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy

Article XXVII Assistance in collection—Each of the Contracting States shall endeavour to collect, as if it were its own tax, any tax referred to in Article II, which has been imposed by the other Contracting State and the collection of which is necessary to ensure that any exemption or reduced rate of tax granted under this Agreement by the other Contracting State shall not be enjoyed by persons not entitled to such benefits

Article XXVIII Miscellaneous—(1) Nothing in this Agreement shall affect the fiscal privileges of diplomatic or consular officials under the general rules of international law or under the provisions of special agreements

(2) Nothing in this Agreement shall affect the taxation on a company which is a resident of Belgium in the event of the repurchase of its own shares or of the distribution of its assets

CHAPTER VI—FINAL PROVISIONS

Article XXIX Entry into force—(1) This Agreement shall be approved in accordance with the laws in force in each of the Contracting States It shall enter into force thirty days after the exchange of letters certifying that the proper procedure was fulfilled in each Contracting State The exchange of letters shall take place at New Delhi

(2) The provisions of this Agreement shall have effect

(*a*) in India, in respect of income derived during any previous year beginning on or after the 1st day of January of the calendar year in which the exchange of letters takes place,

(*b*) in Belgium

(*i*) as respects all tax due at source on income credited or payable on or after the 1st day of January of the calendar year in which the exchange of letters takes place,

(*ii*) as respects all tax other than tax due at source on income derived during any taxable period ending on or after the 31st day of December of the said calendar year

Article XXX Termination—This Agreement shall continue in effect indefinitely but either of the Contracting States may terminate it after a period of five years from the date on which it enters into force, by giving to the other Contracting State,

AGREEMENT FOR AVOIDANCE OF DOUBLE TAXATION BETWEEN INDIA AND AFGHANISTAN

(*Notification No G S R 514(E), dated 30th September 1975*)

Whereas the Government of India and the Government of Afghanistan have concluded an Agreement through exchange of letters as set out in the Annexure hereto, for the avoidance of double taxation of income of enterprises operating aircraft,

Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (XLIII of 1961), and section 24A of the Companies (Profits) Surtax Act, 1964 (VII of 1964), the Central Government hereby directs that all the provisions of the said Agreement shall be given effect to in the Union of India

ANNEXURE

Ambassador of India,
Kabul,
September 14, 1975

Excellency,

I have the honour to refer to the Agreement dated the 26th January, 1952, between the Government of India and the Government of Afghanistan relating to air services, and to the discussions between the representatives of our two Governments on the reciprocal exemption of the airlines of India and Afghanistan from payment of income-tax and to confirm on behalf of the Government of India the following understandings reached between our two Governments

(1) Income derived from the operation of aircraft by the airlines of India shall be exempt from the Afghanistan tax

(2) Income derived from the operation of aircraft by the airlines of Afghanistan shall be exempt from the Indian tax

(3) The exemption provided for in paragraphs (1) and (2) above shall also apply in respect of participation in pools of any kind regarding air transport by the airlines of India or Afghanistan, the exemption shall not, however, apply to income from operation of aircraft in internal traffic in India or Afghanistan

(4) The exemption provided for in paragraphs (1), (2) and (3) above shall have effect in relation to the income derived from the operation of aircraft on or after the 26th day of January, 1952, on which date the Agreement relating to air services was signed between India and Afghanistan

In case any tax on income relatable to the aforesaid period has been recovered by either Government as of the date of this Agreement, the same shall be refunded by that Government on an application to be made in this behalf within twelve months of the said date by the airlines of India or the airlines of Afghanistan as the case may be

(5) It is understood that

(*a*) the term "Indian tax" means the income-tax and surtax imposed under the tax laws of India,

(*b*) the term "Afghanistan tax" means the income-tax and the business transactions tax imposed by the income-tax law of Afghanistan,

are paid or the debt claim from which the interest arises or the right or property giving rise to the royalties is effectively connected with a permanent establishment in India of such resident and such case will instead be governed by the provisions of sub-paragraph (*a*) of the said paragraph (3)

(*d*) The credit referred to in sub-paragraph (*c*) of paragraph (3) of Article XXIII shall be given in an amount of not less than 20 per cent (instead of 15 per cent.) in a case where a person, who is a resident of Belgium, derives income by way of dividends, interest or royalties which, in accordance with the provisions of this Agreement, may be taxed in India but which is at present exempted from taxation in India under the special incentive measures designed to promote economic development in India contained in section 10(*15*)(*iv*) and section 80K of the Income-tax Act, 1961, or which may, in future, be exempted from taxation in India under special incentive measures having a similar object, provided that an agreement to that effect is made between the Governments of the Contracting States in respect of such special measures

(*e*) For the purposes of paragraph (4) of Article XXV, the term "competent authority" shall mean, in the case of India, the Chairman, Central Board of Direct Taxes, Government of India, and in the case of Belgium, the Director General of Direct Taxes

In witness whereof the undersigned, duly authorised thereto, have signed the present Protocol

Done at Brussels, in duplicate, in the Hindi, English, French and Netherlands languages this 7th day of February, 1974

For the Government of India,
K B Lall

For the Government of Belgium,
Van Elslande

paragraph (*b*) of the proviso to clause (*vi*) of sub-section (2) of section 10, and (ii) any loss carried forward under sub-section (2) of section 24

(2) A partner of a firm may be provisionally assessed under sub-section (1) in respect of his share in the firm's income, profits and gains, if its return has been received, although the return of the partner himself may not have been received.

(3) A firm may be provisionally assessed under sub-section (1) as if it were an unregistered firm, unless the firm fulfils such conditions as the Central Government may, by notification in the Official Gazette, specify in that behalf

(4) There shall be no right of appeal against a provisional assessment made under sub-section (1)

(5) For the avoidance of doubt, it is hereby declared that the provisions of section 45 (except the first proviso) and section 46 apply in relation to any tax payable in pursuance of a provisional assessment made under sub-section (1) as if it were a regular assessment made under section 23

(6) Income-tax paid [2]* * under section 18 or section 18A in respect of any income provisionally assessed under sub-section (1), shall be deemed to have been paid towards the provisional assessment

(7) After a regular assessment has been made under section 23, any amount paid or deemed to have been paid towards a provisional assessment made under sub-section (1), shall be deemed to have been paid towards the regular assessment, and where the amount paid or deemed to have been paid towards the provisional assessment, exceeds the amount payable under the regular assessment, the excess shall be refunded to the assessee

(8) Nothing done or suffered by reason or in consequence of any provisional assessment made under this section shall prejudice the determination on the merits, of any issue which may arise in the course of the regular assessment under section 23]

24. Set-off of loss in computing aggregate income.—(1) Where any assessee sustains a loss of profits or gains in any year under any of the heads mentioned in section 6, he shall be entitled to have the amount of the loss set off against his income, profits or gains under any other head in that year

[3]* * * * *

[4][Provided [3]* * that in computing the profits and gains chargeable under the head "Profits and gains of business, profession or vocation", any loss sustained in speculative transactions which are in the nature of a business shall not be taken into account except to the extent of the amount of profits and gains, if any, in any other business consisting of speculative transactions]

[5][Provided [6][further] that where the assessee is an unregistered firm which has not been assessed under the provisions of clause (*b*) of sub-section (5) of section 23, [7]* * any such loss shall be set off only against the income, profits and gains of the firm and not against the income, profits and gains of any of the partners of the firm, and where the assessee is a registered firm, any loss which cannot be set off against other income, profits and gains of the firm shall be apportioned between the partners

[2] "Or deemed to have been paid" omitted by s 12, F Act, 1959, w e f 1-4-1960, subject to the special provisions in s 3, F. Act, 1960

[3] The proviso and "further" omitted by s 2 and Sch , Taxation Laws (Extension to Jammu and Kashmir) Act, 1954

[4] Inserted by s 3, F Act, 1953, w e f 1-4-1953

[5] Inserted by s 27, Indian I T (Amendment) Act, 1939

[6] Inserted by s 6, Indian I T (Amendment) Act, 1944

[7] "In the manner applicable to a registered firm" omitted by s 16, F Act, 1956, w e f 1-4-1956

(*c*) the terms "Indian tax" and "Afghanistan tax" shall also include any identical or substantially similar taxes which are imposed hereafter by India or Afghanistan respectively in addition to or in place of the existing taxes;

(*d*) the term "airlines of India" or "airlines of Afghanistan" means—

(*i*) airlines designated by the Government of India or the Government of Afghanistan, as the case may be, in pursuance of the Agreement dated 26th January, 1952 (as amended or revised from time to time) between the two Governments relating to air services, or

(*ii*) airlines which are authorised by the Government of India or the Government of Afghanistan, as the case may be, by a general or special arrangement between the two Governments to operate chartered flights between or beyond their territories,

(*e*) the term "internal traffic" shall mean traffic which originates and terminates within India or within Afghanistan, as the case may be,

(*f*) the term "operation of aircraft" means a business of transportation by air of persons, live-stock, goods or mail, carried on by the owners or lessors or charterers of aircraft, including the sale of tickets for such transportation on behalf of other enterprises and any other activity directly connected with such transportation

I have the honour also to propose that this letter and Your Excellency's letter of reply confirming the foregoing understandings shall be regarded as constituting an Agreement between the two Governments for the avoidance of double taxation of income of enterprises operating aircraft, which shall enter into force on the date of Your Excellency's reply and shall remain in force indefinitely, unless either of the Governments gives notice to the other Government of its intention to terminate this Agreement on or before the thirtieth day of June in any calendar year after the year 1980 In the event of such a notice, this Agreement shall cease to be effective.

(*a*) in India, in respect of income assessable for the assessment year commencing on the 1st day of April in the second calendar year following the calendar year in which the notice is given and the subsequent assessment years, and

(*b*) in Afghanistan, in respect of income assessable for the taxable year commencing on the 1st day of Hamal, corresponding to the 21st day of March, in the second calendar year following the calendar year in which the notice is given and the subsequent taxable years

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

K. R. P. Singh
Ambassador of India in Afghanistan,
Kabul—Afghanistan

H. E. Mr. Sultan Mahmood Ghazi,
President,
Civil Aviation and Tourism Authority,
Kabul—Afghanistan

President,
Civil Aviation and
Tourism Authority
September 14, 1975

Excellency,

I have the honour to acknowledge the receipt of Your Excellency's letter of today's date which reads as follows

"I have the honour to refer to the Agreement dated the 26th January, 1952, between the Government of India and the Government of Afghanistan relating to air services, and to the discussions between the representatives of our two Governments on the reciprocal exemption of the airlines of India and Afghanistan from payment of income-tax and to confirm on behalf of the Government of India the following understandings reached between our two Governments

(1) Income derived from the operation of aircraft by the airlines of India shall be exempt from the Afghanistan tax.

(2) Income derived from the operation of aircraft by the airlines of Afghanistan shall be exempt from the Indian tax.

(3) The exemption provided for in paragraphs (1) and (2) above shall also apply in respect of participation in pools of any kind regarding air transport by the airlines of India or Afghanistan, the exemption shall not, however, apply to income from operation of aircraft in internal traffic in India or Afghanistan.

(4) The exemption provided for in paragraphs (1), (2) and (3) above shall have effect in relation to the income derived from the operation of aircraft on or after the 26th day of January, 1952, on which date the Agreement relating to air services was signed between India and Afghanistan

In case any tax on income relatable to the aforesaid period has been recovered by either Government as of the date of this Agreement, the same shall be refunded by that Government on an application to be made in this behalf within twelve months of the said date by the airlines of India or the airlines of Afghanistan as the case may be

(5) It is understood that·

(*a*) the term "Indian tax" means the income-tax and surtax imposed under the tax laws of India,

(*b*) the term "Afghanistan tax" means the income-tax and the business transactions tax imposed by the income-tax law of Afghanistan;

(*c*) the terms "Indian tax" and "Afghanistan tax" shall also include any identical or substantially similar taxes which are imposed hereafter by India or Afghanistan respectively in addition to or in place of the existing taxes,

(*d*) the term "airlines of India" or "airlines of Afghanistan" means—

(*i*) airlines designated by the Government of India or the Government of Afghanistan, as the case may be, in pursuance of the Agreement dated 26th January, 1952, (as amended or revised from time to time) between the two Governments relating to air services, or

(*ii*) airlines which are authorised by the Government of India or the Government of Afghanistan, as the case may be, by a general or

special arrangement between the two Governments to operate chartered flights between or beyond their territories;

(*e*) the term "internal traffic" shall mean traffic which originates and terminates within India or within Afghanistan, as the case may be,

(*f*) the term "operation of aircraft" means a business of transportation by air of persons, live-stock, goods or mail, carried on by the owners or lessors or charterers of aircraft, including the sale of tickets for such transportation on behalf of other enterprises and any other activity directly connected with such transportation

I have the honour also to propose that this letter and Your Excellency's letter of reply confirming the foregoing understandings shall be regarded as constituting an Agreement between the two Governments for the avoidance of double taxation of income of enterprises operating aircraft, which shall enter into force on the date of Your Excellency's reply and shall remain in force indefinitely, unless either of the Governments gives notice to the other Government of its intention to terminate this Agreement on or before the thirtieth day of June in any calendar year after the year 1980 In the event of such a notice, this Agreement shall cease to be effective

(*a*) in India, in respect of income assessable for the assessment year commencing on the 1st day of April in the second calendar year following the calendar year in which the notice is given and the subsequent assessment years, and

(*b*) in Afghanistan, in respect of income assessable for the taxable year commencing on the 1st day of Hamal, corresponding to the 21st day of March, in the second calendar year following the calendar year in which the notice is given and the subsequent taxable years"

I have further the honour to confirm the foregoing understandings on behalf of the Government of Afghanistan and to agree that Your Excellency's letter and my reply thereto shall constitute an Agreement between the two Governments as stated in Your Excellency's above-mentioned letter

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration

Sultan Mahmood Ghazi
President,
Civil Aviation and Tourism Authority,
Kabul—Afghanistan

H E Mr K R P Singh,
Ambassador of India in Afghanistan,
Kabul—Afghanistan

H

RULES AND ORDERS RELATING TO APPELLATE TRIBUNAL

THE INCOME-TAX (APPELLATE TRIBUNAL) RULES, 1963

(Notification No I-AT/63, dated 17th April 1963)

Rules to regulate the procedure of the Appellate Tribunal and the procedure of the Benches of the Tribunal

In exercise of the powers conferred by sub-section (5) of section 255 of the Income-tax Act, 1961 (XLIII of 1961), the Appellate Tribunal is pleased to make the following rules —

1. Short title and commencement.—(1) These rules may be called the Income-tax (Appellate Tribunal) Rules, 1963

(2) They shall come into force at once

2. Definitions.—In these rules, unless there is anything repugnant in the subject or context,—

(*i*) "Act" means the Income-tax Act, 1961 (XLIII of 1961),

(*ii*) "authorised representative" means—

(*a*) in relation to an assessee, a person duly authorised by the assessee under section 288 to attend before the Tribunal, and

(*b*) in relation to an income-tax authority who is a party to any proceeding before the Tribunal, a person duly appointed by the Central Government by notification in the Official Gazette as authorised representative to appear, plead and act for such authority in any such proceeding and any other person acting on behalf of the person so appointed,

(*iii*) "Bench" means a Bench of the Tribunal constituted under sub-section (1) of section 255, and includes the President or any other member sitting singly under the provisions of sub-section (3) of the said section and a special Bench constituted under the same provision,

(*iv*) "member" means a member of the Tribunal,

(*v*) "prescribed form" means a form prescribed in the rules made by the Central Board of Direct Taxes under section 295,

(*vi*) "President" means the President of the Tribunal,

(*vii*) "Registrar" means the person who is for the time being discharging the functions of the Registrar of the Tribunal,

(*viii*) "section" means a section of the Act,

(*ix*) "Tribunal" means the Appellate Tribunal constituted by the Central Government under section 252, and includes, where the context so requires, a Bench exercising and discharging the powers and functions of the Tribunal

3. Sittings of Bench.—A Bench shall hold its sittings at its headquarters or such other place as it may consider convenient

4. Powers of Bench.—(1) A Bench shall hear and determine such appeals and applications made under the Act as the President may by general or special order direct

(2) Where there are two or more Benches of the Tribunal working at any headquarters, the President or, in his absence, the seniormost Member present may transfer an appeal or an application from any one such Bench to any other

5. Language of the Tribunal.—The language of the Tribunal shall be English

5A. Filing of documents in Hindi.—Notwithstanding anything contained in these rules, the parties may file documents drawn up in Hindi, if they so desire, in the Benches located in such States as may be notified by the President in this behalf from time to time

5B. Use of Hindi in proceedings and orders.—Notwithstanding anything contained in these rules, the Tribunal in its discretion may permit the use of Hindi in its proceedings or may pass orders in Hindi, in such States as may be notified by the President in this behalf from time to time

Provided that where the order is passed in Hindi, it shall be accompanied by an authorised English translation thereof

6. Procedure for filing appeals.—(1) A memorandum of appeal to the Tribunal shall be presented by the appellant in person or by an agent to the Registrar at the headquarters of the Tribunal, at Bombay, or to an officer authorised in this behalf by the Registrar, or sent by registered post addressed to the Registrar or to such officer

(2) A memorandum of appeal sent by post under sub-rule (1) shall be deemed to have been presented to the Registrar or to the officer authorised by the Registrar, on the day on which it is received in the office of the Tribunal at Bombay, or, as the case may be, in the office of such officer

7. Date of presentation of appeals.—The Registrar, or, as the case may be, the authorised officer, shall endorse on every memorandum of appeal the date on which it is presented or deemed to have been presented under rule 6 and shall sign the endorsement

8. Contents of memorandum of appeal.—Every memorandum of appeal shall be written in English and shall set forth, concisely and under distinct heads, the grounds of appeal without any argument or narrative, and such grounds shall be numbered consecutively

9. What to accompany memorandum of appeal.—(1) Every memorandum of appeal shall be in triplicate and shall be accompanied by two copies (at least one of which shall be a certified copy) of the order appealed against and two copies of the order of the Income-tax Officer

(2) The Tribunal may in its discretion accept a memorandum of appeal which is not accompanied by all or any of the documents referred to in sub-rule (1)

10. Filing of affidavits.—Where a fact which cannot be borne out by, or is contrary to, the record is alleged, it shall be stated clearly and concisely and supported by a duly sworn affidavit

11. Grounds which may be taken in appeal.—The appellant shall not, except by leave of the Tribunal, urge or be heard in support of any ground not set forth in the memorandum of appeal, but the Tribunal, in deciding the appeal, shall not be confined to the grounds set forth in the memorandum of appeal or taken by leave of the Tribunal under this rule

Provided that the Tribunal shall not rest its decision on any other ground unless the party who may be affected thereby has had a sufficient opportunity of being heard on that ground

12. Rejection or amendment of memorandum of appeal.—The Tribunal may reject a memorandum of appeal, if it is not in the prescribed form or return it for being amended within such time as it may allow On representation after such amendment, the memorandum shall be signed and dated by the officer competent to make an endorsement under rule 7

13. Who may be joined as respondent in an appeal by assessee.—In an appeal by an assessee under sub-section (1) of section 253, the Income-tax Officer concerned shall be made a respondent to the appeal

14. Who may be joined as respondent in an appeal by the Income-tax Officer.—In an appeal by the Income-tax Officer under sub-section (2) of section 253, the appellant before the Appellate Assistant Commissioner shall be made a respondent to the appeal

15. What to accompany memorandum of appeal under section 253(2).—In an appeal under sub-section (2) of section 253, a certified copy of the order of the Commissioner directing that an appeal be preferred, shall be appended to the memorandum of appeal

16. Authorising a representative to appear.—In any appeal by an assessee, where the memorandum of appeal is signed by his authorised representative, the assessee shall append to the memorandum a document authorising the representative to appear for him and if the representative is a relative of the assessee, the document shall state what his relationship is with the assessee, or if he is a person regularly employed by the assessee, the document shall state the capacity in which he is at the time employed

17. Authorisation to be filed.—An authorised representative appearing for the assessee at the hearing of an appeal shall, unless the document referred to in rule 16 has been appended, file such a document before the commencement of the hearing

18. Preparation of paper book, etc.—(1) The appellant shall, within a month of the filing of the appeal, submit in triplicate a paper book containing copies of the documents, statements of witnesses and other papers on the file of, or referred to in the order of, the Income-tax Officer or Appellate Assistant Commissioner or Inspecting Assistant Commissioner or Commissioner of Income-tax, as the case may be, which he proposes to refer to or rely upon at the hearing of the appeal and the respondent shall also file such a paper book in triplicate within a month of the service of the notice of the filing of the appeal on him

(2) The Tribunal may *suo moto* direct the preparation of a paper book in triplicate by and at the cost of the appellant or the respondent containing copies of such statements, papers and documents as it may consider necessary for the proper disposal of the appeal

19. Date and place for hearing of appeal to be notified.—(1) The Tribunal shall notify to the parties specifying the date and place of hearing of the appeal and send a copy of the memorandum of appeal to the respondent either before or with such notice

(2) The issue of the notice referred to in sub-rule (1) shall not by itself be deemed to mean that the appeal has been admitted

20. Date and place of hearing of appeal, how fixed—The date and place of hearing of the appeal shall be fixed with reference to the current business of the Tribunal and the time necessary for the service of the notice of appeal, so as to allow the parties sufficient time to appear and be heard in support of or against the appeal

21. Grant of time to answer in an appeal under section 253(1).—In an appeal under sub-section (1) of section 253, in fixing the date for the respondent to appear and answer to the appeal, a reasonable time shall be allowed for the necessary communication with the Commissioner through the proper channel and for the issue of instructions to an authorised representative to appear and answer on behalf of the respondent

22. Cross-objections.—A memorandum of cross-objections filed under sub-section (4) of section 253 shall be registered and numbered as an appeal and all the rules, so far as may be, shall apply to such appeal.

23. Hearing of the appeal.—On the day fixed, or any other day to which the hearing may be adjourned, the appellant shall be heard in support of the appeal The Tribunal shall, then, if necessary, hear the respondent against the appeal, and in such case the appellant shall be entitled to reply

24. Dismissal of appeal for appellant's default, etc.—Where on the day fixed for hearing or any other day to which the hearing may be adjourned, the appellant does not appear when the appeal is called on for hearing, the Tribunal may, in its discretion, either dismiss the appeal for default or may hear it *ex parte*

Provided that where the appeal has been dismissed for default and the appellant appears afterwards and satisfies the Tribunal that there was sufficient cause for his non-appearance when the appeal was called on for hearing, the Tribunal shall make an order setting aside the dismissal and restoring the appeal

25. Hearing appeal ex parte.—Where on the day fixed for hearing or any other day to which the hearing may be adjourned, the appellant appears and the respondent does not appear when the appeal is called on for hearing, the Tribunal may hear the appeal *ex parte*

Explanation—In rules 24 and 25 "appear" means appear in person or through an authorised representative.

26. Continuation of proceedings after the death or adjudication of a party to the appeal.—Where an assessee whether he be the appellant or the respondent to an appeal dies or is adjudicated insolvent or in the case of a company is being wound up, the appeal shall not abate and may, if the assessee was the appellant, be continued by, and if he was the respondent be continued against, the executor, administrator or other legal representative of the assessee or by or against the assignee, receiver or liquidator, as the case may be

27. Respondent may support order on grounds decided against him.—The respondent, though he may not have appealed, may support the order appealed against on any of the grounds decided against him.

28. Remand of the case by the Tribunal.—Where the Tribunal is of the opinion that the case should be remanded, it may remand it to the authority from whose order the appeal has been preferred or to the Income-tax Officer, with such directions as the Tribunal may think fit

29. Production of additional evidence before the Tribunal.—The parties to the appeal shall not be entitled to produce additional evidence either oral or documentary before the Tribunal, but if the Tribunal requires any documents to be produced or

any witness to be examined or any affidavit to be filed to enable it to pass orders or for any other substantial cause, or, if the Income-tax authorities have decided the case without giving sufficient opportunity to the assessee to adduce evidence either on points specified by them or not specified by them, the Tribunal, for reasons to be recorded, may allow such document to be produced or witness to be examined or affidavit to be filed or may allow such evidence to be adduced

30. Mode of taking additional evidence.—Such document may be produced or such witness examined or such evidence adduced either before the Tribunal or before such Income-tax authority as the Tribunal may direct.

31. Additional evidence to be submitted to the Tribunal.—If the document is directed to be produced or witness examined or evidence adduced before any Income-tax authority, he shall comply with the direction of the Tribunal and after compliance send the document, the record of the deposition of the witness or the record of the evidence adduced, to the Tribunal

32. Adjournment of appeal.—The Tribunal may, on such terms as it thinks fit, and at any stage, adjourn the hearing of the appeal

33. Proceedings not open to the public.—The proceedings before the Tribunal shall not be open to the public No person other than the assessee, his employees, his authorised representative, the officers of the Income-tax Department and counsel engaged by the Department, shall, without the permission of the Tribunal, remain present during such proceedings

34. Order to be signed and dated.—(1) The order of the Bench shall be in writing and shall be signed and dated by the members constituting it.

(2) Where a case is referred under sub-section (4) of section 255, the order of the member or members to whom it is referred shall be signed and dated by him or them, as the case may be

35. Order to be communicated to parties.—The Tribunal shall, after the order is signed, cause it to be communicated to the assessee and to the Commissioner

35A. Procedure for filing and disposal of stay petition.—(1)(*a*) Every application for stay of recovery of demand of tax, interest, penalty, fine, estate duty or any other sum shall be presented in triplicate by the applicant in person, or by his duly authorised agent, or sent by registered post to the Registrar or the Assistant Registrar, as the case may be, at the headquarters of a Bench or Benches having jurisdiction to hear the appeals in respect of which the stay application arises

(*b*) Separate applications shall be filed for stay of recovery of demands under different enactments

(2) Every application shall be neatly typed on one side of the paper and shall be in English and shall set forth concisely the following —

(*i*) short facts regarding the demand of the tax, interest, penalty, fine, estate duty or any other sum, recovery of which is sought to be stayed,

(*ii*) the result of the appeal filed before the Appellate Assistant Commissioner, if any,

(*iii*) the exact amount of tax, interest, penalty, fine, estate duty or any other sum demanded, as the case may be, and the amount undisputed therefrom and the amount outstanding,

(*iv*) the date of filing the appeal before the Tribunal and its member, if known,

(*v*) whether any application for stay was made to the revenue authorities concerned, and if so, the result thereof (copies of correspondence, if any, with the revenue authorities to be attached),

(*vi*) reasons in brief for seeking stay,

(*vii*) whether the applicant is prepared to offer security, and if so, in what form,

(*viii*) prayers to be mentioned clearly and concisely (stating exact amount sought to be stayed),

(*ix*) the contents of the application shall be supported by an affidavit sworn by the applicant or his duly authorised agent,

(*x*) every application shall be accompanied by three copies of the assessment order and the order against which the appeal is filed to the Tribunal by the applicant and other documents, if any

(3) An application which does not conform with the above requirements is liable to be summarily rejected

36. What to accompany an application for reference under section 256(1).—An application for reference under sub-section (1) of section 256 shall be in triplicate and shall be accompanied by a list of documents (particulars of which shall be stated) which in the opinion of the applicant should form part of the case, and a translation in English of any such document, where necessary

37. Procedure in respect of application under section 256(1).—Rules 6, 7, 12, 19, 20, 21, 23, 26 and 34 shall apply *mutatis mutandis* to an application under sub-section (1) of section 256

38. Who may be joined as a respondent in an application by the assessee.—Where the application is by an assessee, the Commissioner to whom the Income-tax Officer is subordinate shall be made a respondent

39. Who may be joined as a respondent in an application by the Commissioner.—Where the application is by the Commissioner, the assessee shall be made a respondent

40. Same Bench to hear the application.—The Bench which heard the appeal giving rise to the application shall hear it unless the President directs otherwise

41. Time for submission of reply by the respondent.—On receipt of the notice of the date of hearing of the application the respondent shall, at least 7 days before the date of hearing, submit a reply in writing to the application

42. Contents of the reply.—The reply to the application shall specifically admit or deny whether the question of law formulated by the applicant arises out of the order under sub-section (1) of section 254 If the question formulated by the applicant is defective, the reply shall state in what particular the question is defective and what is the exact question of law which arises out of the said order The reply shall be accompanied by two copies thereof, a list of documents (the particulars of which shall be stated) which in the opinion of the respondent should form part of the case and a translation in English of any such document where necessary

43. Dismissal if no question of law arises.—On the day fixed for the hearing of the application or any other day to which the hearing may have been adjourned, after hearing the parties, the Tribunal shall dismiss the application, if it is of the opinion that no question of law arises out of the order passed under sub-section (1) of section 254

44. Statement of case to be prepared, if a question of law arises.—Where the Tribunal is of the opinion that a question of law arises out of the order under sub-section (1) of section 254, it shall draw up a statement of the case

45. What to accompany the statement of the case.—The Tribunal shall append to the statement documents which, in its opinion, should form part of the case Within such time after the statement of the case is drawn up, as the Tribunal may direct the applicant or the respondent, as the case may be, shall file as many certified copies of the documents which form annexures to the case, as the Tribunal may direct, and in case the party responsible for filing defaults, the Tribunal may send the statement to the High Court without annexures

46. Order on application to be communicated to the parties.—The order on the application for reference shall be communicated to the assessee and the Commissioner

47. Same Bench to deal with requisition from High Court under section 256(2).—Where a requisition is received from the High Court under sub-section (2) of section 256, or where the case is referred back under section 258, it shall be dealt with by the Bench referred to in rule 40 unless otherwise directed by the President

48. Copy of the judgment of the High Court to be sent to the Bench.—When a copy of the judgment of the High Court is received by the Tribunal under sub-section (1) of section 260, it shall be sent to the Bench referred to in rule 40, or any other Bench as directed by the President, for such orders as may be necessary

49. Scale of copying fees.—(1) Copying fees shall be charged as follows —

(*a*) For the first 200 words or less	80 P
(*b*) For every additional 100 words or fraction thereof	40 P

(2) Copying fees shall be recovered in advance in cash

(3) Where a party applies for immediate delivery of a copy of evidence taken down by a stenographer, the fee chargeable shall be 2½ times of those prescribed by sub-rule (1), in such case, fifty per cent of the fees prescribed by sub-rule (1) shall be paid to the stenographer

(4) Except in cases where copies are supplied free under the rules or instructions for the time being in force and in cases covered by sub-rule (3), the scale of fees to be charged for the supply of copies urgently shall be twice those prescribed by sub-rule (1)

50. Fees for inspection of records.—(1) Fees for inspecting records and registers of the Tribunal shall be charged as follows —

(*a*) For the first hour or part thereof . .	80 P
(*b*) For every additional hour or part thereof	50 P

(2) Fees for inspection shall be recovered in advance in cash

(3) No fees shall be charged for inspecting records of a pending appeal or application by a party thereto

51. Repeal and saving.—The Appellate Tribunal Rules, 1946, are hereby repealed except as to proceedings to which the Indian Income-tax Act, 1922, applies

of the firm and they alone shall be entitled to have the amount of the loss set off under this section]

[8][*Explanation 1*—Where the speculative transactions carried on are of such a nature as to constitute a business, the business shall be deemed to be distinct and separate from any other business

Explanation 2—A speculative transaction means a transaction in which a contract for purchase and sale of any commodity including stocks and shares is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scrips

Provided that for the purposes of this section,—

(*a*) a contract in respect of raw materials or merchandise entered into by a person in the course of his manufacturing or merchanting business to guard against loss through future price fluctuations in respect of his contracts for actual delivery of goods manufactured by him or merchandise sold by him; or

(*b*) a contract in respect of stocks and shares entered into by a dealer or investor therein to guard against loss in his holdings of stocks and shares through price fluctuations, or

(*c*) a contract entered into by a member of a forward market or a stock exchange in the course of any transaction in the nature of jobbing or arbitrage to guard against loss which may arise in the ordinary course of his business as such member,

shall not be deemed to be a speculative transaction]

[9][(2) [10][Where any assessee sustains a loss of profits or gains in any year, being a previous year not earlier than the previous year for the assessment for the year ending on the 31st day of March, 1940, in any business, profession or vocation, and the loss cannot be wholly set off under sub-section (1), so much of the loss as is not so set off or the whole loss where the assessee had no other head of income shall be carried forward to the following year, and

(*i*) where the loss was sustained by him in a business consisting of speculative transactions, it shall be set off only against the profits and gains, if any, of any business in speculative transactions carried on by him in that year,

(*ii*) where the loss was sustained by him in any other business, profession or vocation, it shall be set off against the profits and gains, if any, of any business, profession or vocation carried on by him in that year provided that the business, profession or vocation in which the loss was originally sustained continued to be carried on by him in that year, and

(*iii*) if the loss in either case cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following year and so on [11][but no loss shall be so carried forward for more than eight years]]

[12][Provided that—

(*a*) [13]* * * * *

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[8] Inserted by s 3, F Act, 1953, w e f 1-4-1953
[9] Sub-ss (2) and (3) substituted for sub-s (2) by s 27, Indian I T (Amendment) Act, 1939.
[10] Substituted by s 16, F Act, 1955, w e f 1-4-1955
[11] Inserted by s 8, F (No 2) Act, 1957, w e f 1-4-1957
[12] "Provided that" and the original cl (*a*) (relettered "(*b*)" by s. 6, Indian I T (Amendment) Act, 1944) inserted by s 13, Indian I T (Amendment) Act, 1941, w e f 1-4-1942
[13] Omitted by s 2 and Sch , Taxation Laws (Extension to Jammu and Kashmir) Act, 1954

that reference applications under section 66(1) and matters arising under sections 66(2), 66(3), 66(4), 66(5) and 66A(4) of the Indian Income-tax Act, 1922, and reference applications and connected matters arising under the corresponding sections of the Income-tax Act, 1961, the Excess Profits Tax Act, 1940, the Business Profits Tax Act, 1947, the Wealth-tax Act, 1957, the Expenditure-tax Act, 1957, the Gift-tax Act, 1958, the Estate Duty Act, 1953, the Super Profits Tax Act, 1963, and the Companies (Profits) Surtax Act, 1964, arising out of the orders passed by the Bench from which the jurisdiction is transferred shall be heard and decided by the Bench to which the jurisdiction is now transferred

Explanation —By this order, the ordinary jurisdiction of a Bench will be determined not by the place of business or residence of the assessee but by the location of the office of the assessing officer

Harnam Shankar
President
Income-tax Appellate Tribunal

8th May 1973

LIMITS OF SPHERES OF DUTY FOR, AND POWERS DELEGATED TO, VICE-PRESIDENTS

(*Notification No VI-Ad (AT)/73, dated 12th October 1973*)

In exercise of the powers conferred by the Supplementary Rule 60*, the President, Income-tax Appellate Tribunal, in his capacity as the head of the Department, defines the limits of spheres of duty for the Vice-Presidents, Income-tax Appellate Tribunal, as specified in column 2 and delegates the powers to them as specified in column 3 of the Schedule below —

SCHEDULE

Vice-Presidents (1)	Limits of spheres of duty (2)	Powers delegated (3)
Vice-President, Income-tax Appellate Tribunal, Northern Zone, New Delhi	(1) Uttar Pradesh (2) Delhi (3) Madhya Pradesh (excluding Raipur Division) (4) Punjab (5) Haryana (6) Himachal Pradesh (7) Union territory of Chandigarh (8) Rajasthan (9) Jammu and Kashmir	1 To authorise Members, officers and Benches to go on tour within their respective jurisdiction 2 To proceed on tour within their Zones
Vice-President, Western and Southern Zones, Bombay	(1) Maharashtra (2) Tamil Nadu (3) Union territory of Pondicherry (4) Andhra Pradesh (5) Kerala (6) Union territory of Lakshadweep (7) Gujarat (8) Union territory of Dadra and Nagar Haveli (9) Union territory of Goa, Daman and Diu (10) Mysore (11) Raipur Division of Madhya Pradesh	

*The Fundamental Rules were made by the Secretary of State in Council under s 96B of the Government of India Act, 1935, and the Supplementary Rules were made by the Governor General in Council in exercise of the powers conferred on him by the Fundamental Rules

STANDING ORDER No. 1 OF 1973

In pursuance of rule 4 of the Appellate Tribunal Rules, 1946, and rule 4 of the Income-tax (Appellate Tribunal) Rules, 1963, and in supersession of all existing orders on the subject, I hereby direct, subject to any special order, that all appeals and applications under the Indian Income-tax Act, 1922, the Income-tax Act, 1961, the Excess Profits Tax Act, 1940, the Business Profits Tax Act, 1947, the Wealth-tax Act, 1957, the Expenditure-tax Act, 1957, the Gift-tax Act, 1958, the Estate Duty Act, 1953, the Super Profits Tax Act, 1963, and the Companies (Profits) Surtax Act, 1964, from the Districts and States specified in column 2 shall, with effect from 18-4-1973, be heard and determined by the Benches specified in column 1 —

1	2
1 Bombay Benches (5)	Districts of Greater Bombay and Thana of Bombay Division of Maharashtra
2 Allahabad Benches (2)	Uttar Pradesh (excluding all Districts of Rohilkhand Division except Shahjahanpur District, Meerut and Kumaon Divisions and Agra, Aligarh and Mathura Districts of Agra Division)
3 Madras Bench	Tamil Nadu and the Union territory of Pondicherry excluding Mahe
4 Calcutta Benches (8)	West Bengal and the Union territories of Andaman and Nicobar Islands
5 Delhi Benches (4)	Delhi, Rohilkhand Division (except Shahjahanpur District), Meerut and Kumaon Divisions and Agra, Aligarh and Mathura Districts of Agra Division of Uttar Pradesh, and Gwalior Division of Madhya Pradesh
6 Hyderabad Benches (2)	Andhra Pradesh
7 Patna Bench	Bihar
8 Cochin Bench	Kerala and the Union territories of Laccadive, Minicoy and Amindivi Islands and the territory of Mahe forming part of the Union territory of Pondicherry
9 Ahmedabad Benches (2)	Gujarat and the Union territories of Dadra, Nagar Haveli, Daman and Diu
10 Bangalore Bench	Karnataka
11 Indore Bench	Indore Division and Bhopal Division excluding Districts of Hoshangabad and Betul of Madhya Pradesh
12 Chandigarh Bench	Punjab (excluding Districts of Amritsar, Jullundur, Gurdaspur and Hoshiarpur), Haryana, Himachal Pradesh and the Union territory of Chandigarh
13 Nagpur Bench	Nagpur Division of Maharashtra and Raipur Division of Madhya Pradesh
14 Cuttack Bench	Orissa
15 Jaipur Bench	Rajasthan
16 Poona Bench	All Districts of Poona and Aurangabad Divisions and Districts of Kolaba, Ratnagiri, Nasik, Dhulia and Jalgaon of Bombay Division of Maharashtra and the District of Goa of the Union territory of Goa, Daman and Diu
17 Jabalpur Bench	Rewa, Jabalpur and Bilaspur Divisions and Districts of Hoshangabad and Betul of Bhopal Division of Madhya Pradesh
18 Gauhati Bench	Assam, Nagaland, Meghalaya, Tripura and Manipur
19 Amritsar Bench	Districts of Amritsar, Jullundur, Gurdaspur and Hoshiarpur of Punjab and the State of Jammu and Kashmir

2 All pending appeals and applications, except those in which orders have been reserved after hearing, will be governed by the above order Appeals and applications already fixed for hearing will be heard by the Bench before which they are so fixed

3 I further direct with reference to rules 39 and 46 of the Appellate Tribunal Rules, 1946, and rules 40 and 47 of the Income-tax (Appellate Tribunal) Rules, 1963,

NOTIFICATIONS UNDER SEC. 255(5) OF 1961 ACT

(*Notification No F 186-Ad (AT)/71, dated 5th March 1974*)

In exercise of the powers conferred by sub-section (5) of section 255 of the Income-tax Act, 1961 (XLIII of 1961), read with rule 5A of the Income-tax (Appellate Tribunal) Rules, 1963, the President, Income-tax Appellate Tribunal, hereby notifies that documents drawn up in Hindi may be filed in the States of Gujarat, Maharashtra, Uttar Pradesh, Punjab, Chandigarh, Delhi, Madhya Pradesh, Rajasthan and Bihar at the following stations where Benches of the Tribunal are located

1 Ahmedabad
2 Bombay
3 Nagpur
4 Allahabad
5 Amritsar
6 Chandigarh
7 Delhi
8 Indore
9 Jabalpur
10 Jaipur
11 Patna

(*Notification No F 71-Ad (AT)/74, dated 5th May 1975*)

In exercise of the powers conferred by sub-section (5) of section 255 of the Income-tax Act, 1961 (XLIII of 1961), read with rule 5B of the Income-tax (Appellate Tribunal) Rules, 1963, the President, Income-tax Appellate Tribunal, hereby notifies that the Tribunal in its discretion may permit the use of Hindi in its proceedings or may pass orders in Hindi, in the States of Gujarat, Maharashtra, Uttar Pradesh, Punjab, Madhya Pradesh, Rajasthan, Bihar and the Union territories of Chandigarh and Delhi at the following stations where Benches of the Tribunal are located

1 Ahmedabad
2 Bombay
3 Nagpur
4 Allahabad
5 Amritsar
6 Chandigarh
7 Delhi
8 Indore
9. Jabalpur
10 Jaipur
11 Patna

(1)	(2)	(3)
Vice-President, Eastern Zone, Calcutta	(1) West Bengal (2) Union territories of Andaman and Nicobar Islands (3) Bihar (4) Orissa (5) Assam (6) Nagaland (7) Meghalaya (8) Tripura (9) Manipur (10) Union territories of Arunachal Pradesh and Mizoram	

FUNCTIONS DELEGATED TO VICE-PRESIDENTS

(*Notification No VI-Ad (AT)/72, dated 4th February 1974*)

In exercise of the powers conferred by sub-section (5) of section 252 of the Income-tax Act, 1961 (XLIII of 1961), as amended by the Finance Act, 1972 (XVI of 1972), the President, Income-tax Appellate Tribunal, hereby delegates to the Vice-Presidents specified in column 1 of the Schedule below the functions specified in column 3 thereof in respect of Benches specified in column 2 thereof with effect from 18th February, 1974 —

SCHEDULE

Vice-Presidents' Zones (1)	Benches under their jurisdiction (2)	Functions delegated (3)
Western Zone, Bombay	Bombay Benches Poona Bench Nagpur Bench Ahmedabad Benches	(*i*) To constitute the Benches within the respective jurisdiction of the Vice-Presidents
Southern Zone, Madras	Hyderabad Benches Bangalore Bench Madras Benches Cochin Bench	(*ii*) To supervise and control the work of the different Benches in the respective Zones of the Vice-Presidents
Northern Zone, New Delhi	Delhi Benches Chandigarh Bench Jaipur Bench Jabalpur Bench Allahabad Benches Indore Bench Amritsar Bench	
Eastern Zone, Calcutta	Calcutta Benches Cuttack Bench Patna Bench Gauhati Bench	

(1) Section 269G(1) does not contemplate filing of an application for extension of time for presenting the appeal to the Tribunal in any prescribed form Any particular form of application for extension of time for presenting the appeal to the Tribunal is, therefore, not called for

(2) The applicant should file a duly sworn affidavit in support of the facts alleged in the application in pursuance of the provisions of rule 10 of the Income-tax (Appellate Tribunal) Rules, 1963

The Assistant Registrar is requested to place the above procedure before the Members for information It may be given wide publicity

Registrar,
Income-tax Appellate Tribunal

POWER OF ATTORNEY, ETC., OF AUTHORISED REPRESENTATIVE

(*Notification No F 161-Ad (AT)/70, dated 30th December 1971*)

Section 288(1) of the Income-tax Act, 1961, permits an assessee to attend by an authorised representative As per section 288(2), an authorised representative must possess one of the qualifications set out in clauses (*i*) to (*vii*) thereof The qualifications set out therein can be possessed by an individual only and not by a firm or any legal body An authorised representative can, therefore, be only an individual and not a firm or a legal body Two or more individuals qualified to be authorised representatives under section 288 of the Income-tax Act, 1961, can file a joint power of attorney or vakalatnama The practice of filing a power of attorney/vakalatnama/general power of attorney in favour of a firm or a legal body is not correct, and the President, Income-tax Appellate Tribunal, has decided that a proper authority in favour of the individual or a joint authority in favour of two or more individuals only should be filed before the Tribunal

Registrar,
Income-tax Appellate Tribunal

(*Notification No F 161-Ad (AT)/70, dated 8th May 1973*)

In partial modification of the instructions contained in this office's previous note of even number dated the 30th December, 1971, the President, Income-tax Appellate Tribunal, has decided that it will also be sufficient if, while filing the power of attorney in favour of a firm in a case, the constitution of the firm is also intimated to the Tribunal when its power of attorney is filed

Registrar,
Income-tax Appellate Tribunal

ORDER OF REGISTRAR, INCOME-TAX APPELLATE TRIBUNAL

(*Order No 1 of 1973, dated 10th July 1973*)

In pursuance of rule 7 of the Income-tax (Appellate Tribunal) Rules, 1963, and in supersession of all previous orders on the subject, I hereby authorise the Assistant Registrars of the Appellate Tribunal at Bombay, Allahabad, Madras, Calcutta, Delhi, Hyderabad, Patna, Cochin, Ahmedabad, Bangalore, Indore, Chandigarh, Nagpur, Cuttack, Jabalpur, Jaipur, Amritsar, Poona and Gauhati for the purpose of that rule

PROCEDURE FOR APPEAL AND APPLICATION UNDER SEC. 269G OF 1961 ACT

(Notification U O No F 71-Ad.(AT)/74, dated 10th October 1974)

Clause (8) of section 269G lays down that every appeal under that section shall be disposed of as expeditiously as possible and endeavour shall be made to dispose of every such appeal within 90 days from the date on which it is presented In order to ensure compliance with the above statutory provision, it is considered necessary that appeals filed under section 269G be listed separately from appeals under other sections of the Income-tax Act The President has, therefore, directed that the appeals/applications filed under section 269G and the proviso to section 269G(1) should not be entered in the registers maintained for appeals/applications under other sections of the Income-tax Act, but a separate register should be maintained for appeals/applications against acquisition of immovable properties The columns in this register are to be the same as those in the registers for other appeals/applications The number allotted to such appeals/applications will be marked as under

(a) I T (Acq) A No (..)/197 -7

2 Undisposed of appeals under this section already received and included in the register for income-tax appeals are to be transferred to and entered in the register suggested above, with new numbers to be allotted to these appeals

3 Monthly statements in respect of these appeals should be sent to the Head Office separately in the pro forma as given below —

Bench/es	No of appeals at the beginning of the month	No of appeals instituted during the month	No of appeals disposed of during the month	No of appeals pending at the end of the month	No of appeals pending for more than 60 days	No of appeals pending for more than 90 days	Remarks
1	2	3	4	5	6	7	8

In the remarks column, the reasons responsible for the appeal/appeals not being decided within 90 days of filing should be indicated

4 The instructions laid down hereinabove are to be implemented with immediate effect

Assistant Registrar,
Income-tax Appellate Tribunal

(Notification U O No F 71-Ad (AT)/74, dated 12th November 1974)

The proviso to sub-section (1) of section 269G provides for making an application for extension of the period for filing the appeal thereunder before the expiry of the period of 45 days from the date of the order appealed against or a period of 30 days from the date of service of the copy of the order as stipulated therein Such application is to precede the filing of the appeal It is, therefore, considered necessary to lay down the procedure to be followed uniformly by the Benches It has consequently been decided by the President that the following procedure be followed in respect of such applications in addition to the procedure laid down and communicated by this office U O of even number dated 10-10-1974

4. An application for an early hearing of an appeal should invariably give detailed reasons why the assessee wants that his appeal should be given preference over the appeals made by other assessees The application should also state whether or not the tax has been paid and, if so, to what extent

5. An application for sending for the case of another assessee should also be made at the earliest possible opportunity Cases will not ordinarily be sent for, for the purpose of making an assessment on the same basis in other cases

6. Attention is invited to rule 10 of the Appellate Tribunal Rules, 1963. That rule provides that where a fact which cannot be borne out by or is contrary to record is alleged, it should be stated clearly and concisely and should be supported by a duly sworn affidavit Complaints are at times made before the Tribunal that certain statements attributed to the assessees or their representatives were in fact not made. Unless rule 10 is complied with, it is not ordinarily possible to go outside the record An application for time for filing an affidavit as required by rule 10 at the time of hearing of the appeal will not ordinarily be granted The object of this suggestion is to save time in hearing and deciding appeals, applications and cross-objections

7. If an appeal/reference application/cross-objection is barred by time, or if there are reasons for believing that it may be barred by time, an application for condoning the delay should be made well in advance before the hearing of the appeal/application/cross-objection Such an application should ordinarily be supported by an affidavit and other documentary evidence, as for example, a medical certificate.

8. Three copies (typed, if possible) of the statements made by the assessee or the witnesses or of documents relied upon or of extracts of accounts, where necessary, should be produced at the time of the hearing of the appeal, application or cross-objection As far as possible all such documents and papers should be in English or translated into English This suggestion has been accepted by many solicitors and auditors appearing before the Tribunal This suggestion is intended to facilitate the hearing of the appeal, application or cross-objection Extracts of accounts should, if possible, be certified by the assessee's representative or by any other reliable person and be in English

9. Books of account should be kept handy at the time of hearing of the appeal, application or cross-objection If books of account of the year preceding or succeeding the year of account are relevant, they should also be kept handy

10. Assessees should, as far as possible, be present at the hearing of the appeal, application or cross-objection This suggestion is made entirely in the interest of the assessees

11. It has been noticed that requests are made to block the appeals to await decision of the High Court or the Supreme Court in similar points involved in the appeals In order to avoid multiplicity in proceedings, the Appellate Tribunal acceded to such request It is, however, found that in many of such cases, the particulars of the case involving the identical points are not on record so as to find out whether that case has been disposed of by the High Court/the Supreme Court or not This results in prolonging correspondence between the Tribunal and the parties causing long and avoidable delay in the disposal of those blocked appeals/applications/cross-objections It is, therefore, suggested that an application for keeping the appeals/applications/cross-objections blocked should invariably furnish the particulars of the case pending with the High Court/the Supreme Court involving identical points for which the appeals or applications or cross-objections are sought to be blocked The assessees and the departmental representatives should inform the Tribunal about the disposal of the case by the High Court or the Supreme Court immediately after its disposal

Provided that if at the time of presentation of the appeal/application, the Assistant Registrar is absent from office, the appeal or application may be presented to the Superintendent/Assistant Superintendent/Seniormost Head Clerk of the office at Bombay/Delhi/Calcutta or the head clerk at Madras, Allahabad, Patna, Hyderabad, Cochin, Ahmedabad, Bangalore, Indore, Chandigarh, Nagpur, Cuttack, Jabalpur, Jaipur, Amritsar, Poona and Gauhati in the office during office hours

Provided further that if the appellant or applicant apprehends that it is the last day of the limitation for presentation of his appeal or application, he may present it to any Assistant Registrar at Bombay, Allahabad, Madras, Calcutta, Delhi, Hyderabad, Patna, Cochin, Ahmedabad, Bangalore, Indore, Chandigarh, Nagpur, Cuttack, Jabalpur, Jaipur, Amritsar, Poona and Gauhati at his respective residence or any other place where he may be, or to a Member of the Tribunal at his residence or wherever he may be

Registrar,
Income-tax Appellate Tribunal

SUGGESTIONS FOR GUIDANCE OF ASSESSEES

(*Notification No F 114-Ad (AT)/69, dated 13th April 1970*)

The following suggestions are made for the guidance of the assessees and their representatives —

1. In all communications addressed to the Tribunal by the parties with regard to appeals or applications or cross-objections the number thereof, or, if the number is not known, the date of filing thereof, should invariably be given Failure to furnish the information will cause avoidable correspondence and needless delay in answering correspondence

2. An application for adjournment of the hearing should be made at the earliest possible time If it could be presented personally, it should be done so If it cannot be presented personally, a stamped envelope with the address of the assessee or his representative should, as far as possible, accompany the application If a reply is required telegraphically, the necessary postage stamps should accompany the application If a telegram is sent asking for adjournment, arrangement should be made for a reply-paid telegram The suggestion made in this paragraph is intended not so much as a measure of economy as a measure for greater efficiency The Tribunal is not bound to reply to applications for adjournment Replies will, however, be given as far as possible Unless the assessee hears that his application for adjournment has been granted, he should remain present at the hearing of the appeal or application or cross-objection as the case may be

3. Whenever an appeal or application or cross-objection is filed which is connected with an appeal or application or cross-objection relating to the same party filed earlier, reference thereto should invariably be given with the latter appeal or application or cross-objection so that the various connected appeals or applications or cross-objections could be linked up together This will be for the convenience of the parties themselves

If any practitioner wishes that appeals and applications and cross-objections relating to different assessees in which he is engaged should be taken up on the same or consecutive days, he should intimate to the Tribunal the particulars of these appeals and applications and cross-objections including the dates of filing thereof, well in advance

DIVISION 5

MISCELLANEOUS STATUTES

so as to enable the Tribunal to dispose of such blocked cases soon thereafter In this connection, it may be made clear that the Tribunal is not bound to keep such appeals/applications/cross-objections blocked for indefinite periods

12. Whenever any appeal against the penalty order passed by the I A C is filed, the appellant should invariably inform the Tribunal in the forwarding letter whether any quantum appeal pertaining to the same assessment year is pending before the A A C concerned The Tribunal should be informed immediately after the disposal of the said quantum appeal by the A A C If the said quantum appeal has already been disposed of by the A A C at the time of filing of the penalty appeal before the Tribunal, the date of filing of the quantum appeal before the Tribunal may be intimated to enable it to link both the appeals and post them for hearing on one date In case no such quantum appeal is proposed to be filed before the Tribunal, the fact may be intimated to the Tribunal, so that the penalty appeal may be posted for hearing

Registrar,
Income-tax Appellate Tribunal

(*b*) where depreciation allowance is, under clause (*b*) of the proviso to clause (*vi*) of sub-section (2) of section 10, also to be carried forward, effect shall first be given to the provisions of this sub-section,]

[14][(*c*)] nothing herein contained shall entitle any assessee, being a registered firm, to have carried forward and set off any loss which has been apportioned between the partners, under the proviso to sub-section (1), or entitle any assessee, being a partner in an unregistered firm which has not been assessed under the provisions of clause (*b*) of sub-section (5) of section 23 [15]* *, to have carried forward and set off against his own income any loss sustained by the firm,

[16][(*d*)] where an unregistered firm is assessed [17]* * under clause (*b*) of sub-section (5) of section 23, during any year, its losses shall also be carried forward and set off under this section as if it were a registered firm,

[18][(*e*) where a change has occurred in the constitution of a firm, nothing in this section shall be deemed to entitle the firm to have set off so much of the loss proportionate to the share of a retired or deceased partner computed in accordance with the provisions of clause (*b*) of sub-section (1) of section 16 as exceeds his share of profits, if any, of the previous year in the firm, or to entitle any partner to the benefit of any portion of the said loss which is not apportionable to him under the said clause (*b*), and where any person carrying on any business, profession or vocation has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in this section shall be deemed to entitle any person other than the person incurring the loss to have it set off against his income, profits or gains,]

[19][(*f*) a loss arising in the previous years for the assessment for the years ending on the 31st day of March of the years 1940, 1941, 1942, 1943 and 1944 shall be carried forward for one, two, three, four and five years respectively, and a loss arising in the previous years for the assessment for the years ending on the 31st day of March of the years 1945, 1946, 1947, 1948 and 1949 shall be carried forward for six years, and such loss shall be set off only against the profits and gains, if any, of the assessee from the same business, profession or vocation]

[20][(2A) Notwithstanding anything contained in sub-section (1), where the loss sustained is a loss falling under the head "Capital gains", such loss shall not be set off except against any profits and gains falling under that head

(2B) Where an assessee sustains a loss such as is referred to in sub-section (2A) and the loss cannot be wholly set off in accordance with the provisions of that sub-section, the portion not so set off shall be carried forward to the following year and set off against capital gains for that year, and if it cannot be so set off, the amount thereof not so set off shall be carried forward to the following year and so on, [21][so however that no such loss shall be carried forward for more than eight years]

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[14] "(*b*)" substituted for "provided that" by s 13, Indian I T (Amendment) Act, 1941, and "(*c*)" substituted for "(*b*)" by s 6, Indian I T (Amendment) Act, 1944

[15] "In the manner applicable to a registered firm" omitted by s 16, F Act, 1956, w e f 1-4-1956

[16] "(*c*)" substituted for "provided further that" by s 13, Indian I T (Amendment) Act, 1941, and "(*d*)" substituted for "(*c*)" by s 6, Indian I T (Amendment) Act, 1944

[17] "As a registered firm" omitted by s 16, F Act, 1956, w e f 1-4-1956

[18] Cl (*d*) substituted for the third proviso by s 13, Indian I T (Amendment) Act, 1941, and relettered "(*e*)" by s 6, Indian I T (Amendment) Act, 1944

[19] Inserted by s 16, F Act, 1955, w e f 1-4-1955

[20] Inserted by s 10, I T and E P T (Amendment) Act, 1947

[21] "So however that no such loss shall be so carried forward for more than six years" omitted by s 7, F (No 3) Act, 1956, w e f 1-4-1957, and the present words inserted by s 8, F (No 2) Act, 1957, w e f 1-4-1957

A

THE FINANCE ACTS

THE FINANCE ACT, 1969

(ACT NO. XIV OF 1969)

(Received the assent of the President on 13th May 1969.)

CHAPTER I

PRELIMINARY

1. Short title and commencement.—(1) This Act may be called the Finance Act, 1969.

(2) Save as otherwise provided in this Act, sections 2 to 25 shall be deemed to have come into force on the 1st day of April, 1969.

CHAPTER II

RATES OF INCOME-TAX

2. Income-tax.—(1) Subject to the provisions of sub-sections (2) and (3), for the assessment year commencing on the 1st day of April, 1969, income-tax shall be charged at the rates specified in Part I of the First Schedule and, in the cases to which Paragraphs A, B, C and D of that Part apply, shall be increased by a surcharge for purposes of the Union and in the cases to which Paragraph C applies, also by a special surcharge for purposes of the Union, calculated in each case in the manner provided therein

(2) In making any assessment for the assessment year commencing on the 1st day of April, 1969, where the total income of a company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956), includes any profits and gains from life insurance business, the income-tax payable by it shall be the aggregate of the income-tax calculated—

(*i*) on the amount of profits and gains from life insurance business so included, at the rate applicable in the case of the Life Insurance Corporation of India, in accordance with Paragraph E of Part I of the First Schedule, to that part of its total income which consists of profits and gains from life insurance business, and

(*ii*) on the remaining part of its total income, at the rate applicable to the company on its total income

(3) In cases to which Chapter XII of the Income-tax Act, 1961 (XLIII of 1961), (hereinafter referred to as the Income-tax Act) applies, the tax chargeable shall be determined as provided in that Chapter, and with reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter, as the case may be

(4) In cases in which tax has to be deducted under sections 193, 194, 194A and 195 of the Income-tax Act at the rates in force, the deduction shall be made at the rates specified in Part II of the First Schedule

(5) In cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4)

of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or deducted under sub-section (9) of section 80E of the said Act from any payment referred to in the said sub-section (9) or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be so calculated, charged, deducted or computed at the rate or rates specified in Part III of the First Schedule

(6) For the purposes of this section and the First Schedule,—

(*a*) "company in which the public are substantially interested" means a company which is such a company as is referred to in section 108 of the Income-tax Act,

(*b*) "domestic company" means an Indian company, or any other company which, in respect of its income liable to income-tax under the Income-tax Act for the assessment year commencing on the 1st day of April, 1969, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income in accordance with the provisions of section 194 of that Act,

(*c*) "industrial company" means a company which is mainly engaged in the business of generation or distribution of electricity or any other form of power or in the construction of ships or in the manufacture or processing of goods or in mining,

Explanation—For the purposes of this clause, a company shall be deemed to be mainly engaged in the business of generation or distribution of electricity or any other form of power or in the construction of ships or in the manufacture or processing of goods or in mining, if the income attributable to any one or more of the aforesaid activities included in its total income of the previous year (as computed before making any deduction under Chapter VI-A of the Income-tax Act) is not less than fifty-one per cent of such total income,

(*d*) "tax-free security" means any security of the Central Government issued or declared to be income-tax free, or any security of a State Government issued income-tax free, the income-tax whereon is payable by the State Government,

(*e*) all other words and expressions used in this section and the First Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings, respectively, assigned to them in that Act.

* * *

THE FIRST SCHEDULE

[See section 2]

PART I

Income-tax and surcharges on income-tax

Paragraph A

In the case of every individual or Hindu undivided family or unregistered firm or other association of persons or body of individuals, whether incorporated or not, or

every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 5,000	5 per cent of the total income,
(2) where the total income exceeds Rs 5,000 but does not exceed Rs 10,000	Rs 250 *plus* 10 per cent of the amount by which the total income exceeds Rs 5,000,
(3) where the total income exceeds Rs 10,000 but does not exceed Rs 15,000	Rs 750 *plus* 15 per cent of the amount by which the total income exceeds Rs 10,000,
(4) where the total income exceeds Rs 15,000 but does not exceed Rs 20,000	Rs 1,500 *plus* 20 per cent of the amount by which the total income exceeds Rs 15,000,
(5) where the total income exceeds Rs 20,000 but does not exceed Rs 25,000	Rs 2,500 *plus* 30 per cent of the amount by which the total income exceeds Rs 20,000,
(6) where the total income exceeds Rs 25,000 but does not exceed Rs 30,000	Rs 4,000 *plus* 40 per cent of the amount by which the total income exceeds Rs 25,000,
(7) where the total income exceeds Rs 30,000 but does not exceed Rs 50,000	Rs 6,000 *plus* 50 per cent of the amount by which the total income exceeds Rs 30,000,
(8) where the total income exceeds Rs 50,000 but does not exceed Rs 70,000	Rs 16,000 *plus* 60 per cent of the amount by which the total income exceeds Rs 50,000,
(9) where the total income exceeds Rs 70,000 but does not exceed Rs 1,00,000	Rs 28,000 *plus* 65 per cent of the amount by which the total income exceeds Rs 70,000,
(10) where the total income exceeds Rs 1,00,000 but does not exceed Rs 2,50,000	Rs 47,500 *plus* 70 per cent of the amount by which the total income exceeds Rs 1,00,000,
(11) where the total income exceeds Rs 2,50,000	Rs 1,52,500 *plus* 75 per cent of the amount by which the total income exceeds Rs 2,50,000

Provided that for the purposes of this Paragraph, in the case of a person, not being a non-resident—

(*i*) no income-tax shall be payable on a total income not exceeding the following limit, namely —

(*a*) Rs 7,000 in the case of every Hindu undivided family which at any time during the previous year satisfies either of the following two conditions, namely —

(*1*) that it has at least two members entitled to claim partition who are not less than eighteen years of age, or

(*2*) that it has at least two members entitled to claim partition who are not lineally descended one from the other and who are not lineally descended from any other living member of the family,

(*b*) Rs 4,000 in every other case,

(*ii*) where such person is an individual whose total income does not exceed Rs 10,000 and who has, during the previous year, incurred any expenditure for the maintenance of any one or more of his parents or grand-parents mainly dependent on him, the income-tax computed at the rate hereinbefore

specified shall be reduced by so much of the amount specified hereunder, as does not exceed the amount of income-tax so computed —

(*a*) Rs 145	. . .	in the case of an unmarried individual,
(*b*) Rs 220	. .	in the case of a married individual who has no child mainly dependent on him,
(*c*) Rs 240	.	in the case of a married individual who has one child mainly dependent on him,
(*d*) Rs 260	. .	in the case of a married individual who has more than one child mainly dependent on him,

so, however, that in the case of a married individual whose spouse has a total income exceeding Rs. 4,000, this clause shall have effect as if for the amounts of Rs 220, Rs 240 and Rs 260, the amounts of Rs 145, Rs 165 and Rs 185 had, respectively, been substituted,

(*iii*) where such person is an individual not falling under clause (*ii*) or a Hindu undivided family, the income-tax computed at the rate hereinbefore specified shall be reduced by so much of the amount specified hereunder, as does not exceed the amount of income-tax so computed —

(*a*) Rs 125	. . . .	in the case of an unmarried individual,
(*b*) Rs 200	. . .	in the case of a married individual who has no child mainly dependent on him or a Hindu undivided family which has no minor coparcener,
(*c*) Rs 220	.	in the case of a married individual who has one child mainly dependent on him or a Hindu undivided family which has one minor coparcener mainly supported from the income of such family,
(*d*) Rs 240	.	in the case of a married individual who has more than one child mainly dependent on him or a Hindu undivided family which has more than one minor coparcener mainly supported from the income of such family,

so, however, that in the case of a married individual whose spouse has a total income exceeding Rs 4,000, this clause shall have effect as if for the amounts of Rs. 200, Rs 220 and Rs. 240, the amounts of Rs 125, Rs 145 and Rs 165 had, respectively, been substituted,

(*iv*) (*A*) where such person is an individual whose total income exceeds Rs 10,000 but does not exceed Rs 20,000 and who has, during the previous year, incurred any expenditure for the maintenance of any one or more of his parents or grand-parents mainly dependent on him, the income-tax payable by him in respect of such total income shall not exceed the aggregate of—

(*1*) the income-tax which would have been payable by the individual if his total income had been Rs 10,000, and

(*2*) 40 per cent. of the amount by which the total income of the individual exceeds Rs. 10,000,

(*B*) where such person is not an individual whose case falls under sub-clause (*A*) and the total income of such person does not exceed Rs 20,000, the income-tax payable thereon shall not exceed 40 per cent of the amount by which the total income exceeds the limit specified in sub-clause (*a*) or, as the case may be, sub-clause (*b*) of clause (*i*) of this proviso

Explanation —For the purposes of clause (*ii*) and sub-clause (*A*) of clause (*iv*) of this proviso, a parent or grand-parent of an individual shall not be treated as being mainly dependent on such individual if the income of the parent or, as the case may be, the grand-parent from all sources in respect of the previous year relevant to the assessment year exceeds one thousand rupees

SURCHARGE ON INCOME-TAX

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax

Paragraph B

In the case of every co-operative society,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 5,000	5 per cent of the total income,
(2) where the total income exceeds Rs 5,000 but does not exceed Rs 10,000	Rs 250 *plus* 10 per cent of the amount by which the total income exceeds Rs 5,000,
(3) where the total income exceeds Rs. 10,000 but does not exceed Rs 15,000	Rs 750 *plus* 15 per cent of the amount by which the total income exceeds Rs 10,000,
(4) where the total income exceeds Rs. 15,000 but does not exceed Rs 20,000	Rs 1,500 *plus* 20 per cent of the amount by which the total income exceeds Rs 15,000,
(5) where the total income exceeds Rs 20,000 but does not exceed Rs 25,000	Rs 2,500 *plus* 25 per cent of the amount by which the total income exceeds Rs 20,000,
(6) where the total income exceeds Rs 25,000	Rs 3,750 *plus* 40 per cent of the amount by which the total income exceeds Rs 25,000

Provided that—

(*i*) no income-tax shall be payable on a total income not exceeding Rs 4,000, and

(*ii*) where the total income is Rs. 20,000 or less, the income-tax payable shall not exceed 40 per cent of the amount by which the total income exceeds Rs 4,000

SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax.

Paragraph C

In the case of every registered firm,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 25,000	Nil,
(2) where the total income exceeds Rs 25,000 but does not exceed Rs 50,000	6 per cent of the amount by which the total income exceeds Rs 25,000;

(3) where the total income exceeds Rs 50,000 but does not exceed Rs 1,00,000	Rs 1,500 *plus* 12 per cent of the amount by which the total income exceeds Rs 50,000,
(4) where the total Income exceeds Rs 1,00,000	Rs 7,500 *plus* 20 per cent of the amount by which the total income exceeds Rs 1,00,000

SURCHARGES ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by the aggregate of surcharges for purposes of the Union calculated as specified hereunder —

(*a*) in the case of a registered firm whose total income includes income derived from a profession carried on by it and the income so included is not less than fifty-one per cent of such total income, a surcharge calculated at the rate of ten per cent of the amount of income-tax computed at the rate hereinbefore specified,

(*b*) in the case of any other registered firm, a surcharge calculated at the rate of twenty per cent of the amount of income-tax computed at the rate hereinbefore specified, and

(*c*) a special surcharge calculated at the rate of ten per cent on the aggregate of the following amounts, namely —

(*i*) the amount of income-tax computed at the rate hereinbefore specified, and

(*ii*) the amount of the surcharge calculated in accordance with clause (*a*) or, as the case may be, clause (*b*) of this Sub-Paragraph

Paragraph D

In the case of every local authority,—

RATE OF INCOME-TAX

On the whole of the total income	50 per cent

SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax

Paragraph E

In the case of the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956),—

RATES OF INCOME-TAX

(*i*) on that part of its total income which consists of profits and gains from life insurance business	52 5 per cent ,
(*ii*) on the balance, if any, of the total income	the rate of income-tax applicable, in accordance with Paragraph F of this Part, to the total income of a domestic company which is a company in which the public are substantially interested

Paragraph F

In the case of a company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956),—

RATES OF INCOME-TAX

I. In the case of a domestic company—

(1) where the company is a company in which the public are substantially interested,—	
(*i*) in a case where the total income does not exceed Rs 50,000	45 per cent of the total income;
(*ii*) in a case where the total income exceeds Rs 50,000	55 per cent of the total income,
(2) where the company is not a company in which the public are substantially interested,—	
(*i*) in the case of an industrial company—	
(*a*) on so much of the total income as does not exceed Rs 10,00,000	55 per cent ,
(*b*) on the balance, if any, of the total income	60 per cent ,
(*ii*) in any other case	65 per cent of the total income

Provided that the income-tax payable by a domestic company, being a company in which the public are substantially interested, the total income of which exceeds Rs 50,000, shall not exceed the aggregate of—

(*a*) the income-tax which would have been payable by the company if its total income had been Rs 50,000 (the income of Rs 50,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the company), and

(*b*) 80 per cent of the amount by which its total income exceeds Rs 50,000

II. In the case of a company other than a domestic company—

(*i*) on so much of the total income as consists of—	
(*a*) royalties received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1961, or	
(*b*) fees for rendering technical services received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 29th day of February, 1964,	
and where such agreement has, in either case, been approved by the Central Government	50 per cent ,
(*ii*) on the balance, if any, of the total income	70 per cent

PART II

Rates for deduction of tax at source in certain cases

In every case in which under the provisions of sections 193, 194, 194A and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to deduction, at the following rates —

	Income-tax	
	Rate of income-tax	Rate of surcharge
1 In the case of a person other than a company—		
(a) where the person is resident—		
(i) on income by way of interest other than "Interest on securities"	10 per cent	Nil,
(ii) on any other income (excluding interest payable on a tax-free security)	20 per cent	2 per cent ,
(b) where the person is not resident in India—		
(i) on the whole income (excluding interest payable on a tax-free security)	income-tax at 30 per cent and surcharge at 3 per cent of the amount of the income *or* income-tax and surcharge on income-tax in respect of the income at the rates prescribed in Paragraph A of Part III of this Schedule, if such income had been the total income, whichever is higher,	
(ii) on the income by way of interest payable on a tax-free security	15 per cent	1 5 per cent
2 In the case of a company—		
(a) where the company is a domestic company—		
(i) on income by way of interest other than "Interest on securities"	20 per cent	Nil,
(ii) on any other income (excluding interest payable on a tax-free security)	22 per cent	Nil,
(b) where the company is not a domestic company—		
(i) on the income by way of dividends payable by an Indian company as is referred to in clause (a)(i) of sub-section (1) of section 80M of the Income-tax Act	14 per cent	Nil,
(ii) on the income by way of dividends payable by any domestic company other than a company referred to in (i) hereinabove	24 5 per cent	Nil,
(iii) on the income by way of royalties payable by an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1961, and which has been approved by the Central Government	50 per cent	Nil,
(iv) on the income by way of fees payable by an Indian concern for rendering technical services in pursuance of an agreement made by it with the Indian concern after the 29th day of February, 1964, and which has been approved by the Central Government	50 per cent	Nil,
(v) on the income by way of interest payable on a tax-free security	44 per cent	Nil,
(vi) on any other income	70 per cent	Nil

PART III

Rates for calculating or charging income-tax in certain cases, deducting income-tax from income chargeable under the head "Salaries" or any payment referred to in sub-section (9) of section 80E and computing "advance tax"

In cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or deducted under sub-section (9) of section 80E of the said Act from any payment referred to in the said sub-section (9) or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be so calculated, charged, deducted or computed at the following rate or rates —

Paragraph A

In the case of every individual or Hindu undivided family or unregistered firm or other association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 5,000	5 per cent of the total income,
(2) where the total income exceeds Rs 5,000 but does not exceed Rs 10,000	Rs 250 *plus* 10 per cent of the amount by which the total income exceeds Rs 5,000,
(3) where the total income exceeds Rs 10,000 but does not exceed Rs 15,000	Rs 750 *plus* 17 per cent of the amount by which the total income exceeds Rs 10,000,
(4) where the total income exceeds Rs 15,000 but does not exceed Rs 20,000	Rs 1,600 *plus* 23 per cent of the amount by which the total income exceeds Rs 15,000,
(5) where the total income exceeds Rs 20,000 but does not exceed Rs 25,000	Rs 2,750 *plus* 30 per cent of the amount by which the total income exceeds Rs 20,000,
(6) where the total income exceeds Rs 25,000 but does not exceed Rs 30,000	Rs 4,250 *plus* 40 per cent of the amount by which the total income exceeds Rs 25,000,
(7) where the total income exceeds Rs 30,000 but does not exceed Rs 50,000	Rs 6,250 *plus* 50 per cent of the amount by which the total income exceeds Rs 30,000,
(8) where the total income exceeds Rs 50,000 but does not exceed Rs 70,000	Rs 16,250 *plus* 60 per cent of the amount by which the total income exceeds Rs 50,000,
(9) where the total income exceeds Rs 70,000 but does not exceed Rs 1,00,000	Rs 28,250 *plus* 65 per cent of the amount by which the total income exceeds Rs 70,000,
(10) where the total income exceeds Rs 1,00,000 but does not exceed Rs 2,50,000	Rs 47,750 *plus* 70 per cent. of the amount by which the total income exceeds Rs 1,00,000,
(11) where the total income exceeds Rs 2,50,000	Rs 1,52,750 *plus* 75 per cent of the amount by which the total income exceeds Rs 2,50,000

[22][Provided that where the loss sustained by an assessee, not being a company, in any previous year does not exceed five thousand rupees, it shall not be carried forward]]

(3) When, in the course of the assessment of the total income of any assessee, it is established that a loss of profits or gains has taken place which he is entitled to have set off under the provisions of this section, the Income-tax Officer shall notify to the assessee by order in writing the amount of the loss as computed by him for the purposes of this section.]

[23][**24A. Assessment in case of departure from [24][the taxable territories].**—(1) When it appears to the Income-tax Officer that any person may leave [24][the taxable territories] during the current financial year, or shortly after its expiry, and that he has no present intention of returning, the Income-tax Officer may proceed to assess him on his total income [25][of the period from the expiry of the last previous year of which the income has been assessed in his hands to the probable date of his departure from [24][the taxable territories], or where he has not been previously assessed, on his total income of the period up to the probable date of his departure from [24][the taxable territories] The assessment shall be made on the total income of each completed previous year included in such period at the rate at which such income would have been charged had it been fully assessed, and as respects the period from the expiry of the last of such completed previous years to the probable date of departure the Income-tax Officer shall estimate the total income of such person during such period and assess it at the rate in force for the financial year in which such assessment is made]

Provided that nothing herein contained shall authorise an Income-tax Officer to assess any income, profits or gains which have escaped assessment [1][or have been under-assessed, or have been assessed at too low a rate, or have been the subject of excessive relief under this Act but] in respect of which he is debarred from issuing a notice under section 34

(2) For the purpose of making an assessment under sub-section (1) the Income-tax Officer may serve a notice upon such person requiring him to furnish, within such time not being less than seven days as may be specified in the notice, a return in the same form and verified in the same manner as a return under sub-section (2) of section 22, setting forth (along with such other particulars as may be provided for in the notice) his total income for each of the completed previous years [2][comprised in the relevant period referred to in the first sentence of] sub-section (1) and his estimated total income for the period from the expiry of the last such completed previous year to the probable date of his departure, and the provisions of this Act shall, so far as may be, apply as if the notice were a notice issued under sub-section (2) of section 22]

[3][**24B. Tax of deceased person payable by representative.**—(1) Where a person dies, his executor, administrator or other legal representative shall be liable to pay out of the estate of the deceased person to the extent to which the estate is capable of meeting the charge the tax assessed as payable by such person, or any tax which would have been payable by him under this Act if he had not died

[4][(2) Where a person dies before the publication of the notice referred to in sub-section (1) of section 22 or before he is served with a notice under sub-section (2)

[22] Substituted by s 7, F (No 3) Act, 1956, w e f 1-4-1957
[23] Inserted by s 11, Indian I T (Second Amendment) Act, 1933
[24] Substituted for "British India" by Adaptation of Laws Order, 1950
[25] Substituted by s 28, Indian I T (Amendment) Act, 1939
[1] Substituted for "or have been assessed at too low a rate", *ibid*
[2] Substituted for "comprised in the period first referred to in", *ibid*
[3] Inserted by s 11, Indian I.T (Second Amendment) Act, 1933
[4] Substituted by s 29, Indian I T (Amendment) Act, 1939

(*d*) Rs 240 — in the case of a married individual who has more than one child mainly dependent on him or a Hindu undivided family which has more than one minor coparcener mainly supported from the income of such family,

so, however, that in the case of a married individual whose spouse has a total income exceeding Rs 4,000 in respect of the previous year relevant to the assessment year commencing on the 1st day of April, 1970, this clause shall have effect as if for the amounts of Rs 200, Rs 220 and Rs 240, the amounts of Rs 125, Rs 145 and Rs 165 had, respectively, been substituted,

(*iv*) (*A*) where such person is an individual whose total income exceeds Rs 10,000 but does not exceed Rs 20,000 and who has, during the previous year relevant to the assessment year commencing on the 1st day of April, 1970, incurred any expenditure for the maintenance of any one or more of his parents or grand-parents mainly dependent on him, the income-tax payable by him in respect of such total income shall not exceed the aggregate of—

(*1*) the income-tax which would have been payable by the individual if his total income had been Rs 10,000, and

(*2*) 40 per cent of the amount by which the total income of the individual exceeds Rs 10,000,

(*B*) where such person is not an individual whose case falls under sub-clause (*A*) and the total income of such person does not exceed Rs 20,000, the income-tax payable thereon shall not exceed 40 per cent of the amount by which the total income exceeds the limit specified in sub-clause (*a*) or, as the case may be, sub-clause (*b*) of clause (*i*) of this proviso

Explanation —For the purposes of clause (*ii*) and sub-clause (*A*) of clause (*iv*) of this proviso, a parent or grand-parent of an individual shall not be treated as being mainly dependent on such individual if the income of the parent or, as the case may be, the grand-parent from all sources in respect of the previous year relevant to the assessment year commencing on the 1st day of April, 1970, exceeds one thousand rupees

SURCHARGE ON INCOME-TAX

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax

Paragraph B

In the case of every co-operative society,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 10,000	15 per cent of the total income,
(2) where the total income exceeds Rs 10,000 but does not exceed Rs 20,000	Rs 1,500 *plus* 25 per cent of the amount by which the total income exceeds Rs 10,000,
(3) where the total income exceeds Rs 20,000	Rs 4,000 *plus* 40 per cent of the amount by which the total income exceeds Rs 20,000

SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax

Provided that for the purposes of this Paragraph, in the case of a person, not being a non-resident—

(*i*) no income-tax shall be payable on a total income not exceeding the following limit, namely —

(*a*) Rs 7,000 in the case of every Hindu undivided family which at any time during the previous year relevant to the assessment year commencing on the 1st day of April, 1970, satisfies either of the following two conditions, namely —

(*1*) that it has at least two members entitled to claim partition who are not less than eighteen years of age, or

(*2*) that it has at least two members entitled to claim partition who are not lineally descended one from the other and who are not lineally descended from any other living member of the family,

(*b*) Rs 4,000 in every other case,

(*ii*) where such person is an individual whose total income does not exceed Rs 10,000 and who has, during the previous year relevant to the assessment year commencing on the 1st day of April, 1970, incurred any expenditure for the maintenance of any one or more of his parents or grand-parents mainly dependent on him, the income-tax computed at the rate hereinbefore specified shall be reduced by so much of the amount specified hereunder, as does not exceed the amount of income-tax so computed —

(*a*) Rs 145	in the case of an unmarried individual,
(*b*) Rs 220	in the case of a married individual who has no child mainly dependent on him,
(*c*) Rs 240	in the case of a married individual who has one child mainly dependent on him,
(*d*) Rs 260	in the case of a married individual who has more than one child mainly dependent on him,

so, however, that in the case of a married individual whose spouse has a total income exceeding Rs 4,000 in respect of the previous year relevant to the assessment year commencing on the 1st day of April, 1970, this clause shall have effect as if for the amounts of Rs 220, Rs 240 and Rs 260, the amounts of Rs 145, Rs 165 and Rs 185 had, respectively, been substituted,

(*iii*) where such person is an individual not falling under clause (*ii*) or a Hindu undivided family, the income-tax computed at the rate hereinbefore specified shall be reduced by so much of the amount specified hereunder, as does not exceed the amount of income-tax so computed —

(*a*) Rs 125	in the case of an unmarried individual,
(*b*) Rs 200	in the case of a married individual who has no child mainly dependent on him or a Hindu undivided family which has no minor coparcener,
(*c*) Rs 220	in the case of a married individual who has one child mainly dependent on him or a Hindu undivided family which has one minor coparcener mainly supported from the income of such family,

RATES OF INCOME-TAX

(i) on that part of its total income which consists of profits and gains from life insurance business	52 5 per cent ,
(ii) on the balance, if any, of the total income	the rate of income-tax applicable, in accordance with Paragraph F of this Part, to the total income of a domestic company which is a company in which the public are substantially interested

Paragraph F

In the case of a company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956),—

RATES OF INCOME-TAX

I. In the case of a domestic company—

(1) where the company is a company in which the public are substantially interested,—	
(i) in a case where the total income does not exceed Rs 50,000	45 per cent of the total income,
(ii) in a case where the total income exceeds Rs 50,000	55 per cent of the total income,
(2) where the company is not a company in which the public are substantially interested,—	
(i) in the case of an industrial company—	
(a) on so much of the total income as does not exceed Rs 10,00,000	55 per cent ,
(b) on the balance, if any, of the total income	60 per cent ,
(ii) in any other case	65 per cent of the total income

Provided that the income-tax payable by a domestic company, being a company in which the public are substantially interested, the total income of which exceeds Rs 50,000, shall not exceed the aggregate of—

(a) the income-tax which would have been payable by the company if its total income had been Rs 50,000 (the income of Rs 50,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the company), and

(b) 80 per cent of the amount by which its total income exceeds Rs. 50,000

II In the case of a company other than a domestic company—

(i) on so much of the total income as consists of—	
(a) royalties received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1961, or	
(b) fees for rendering technical services received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 29th day of February, 1964,	
and where such agreement has, in either case, been approved by the Central Government	50 per cent ,
(ii) on the balance, if any, of the total income	70 per cent

* * *

Paragraph C

In the case of every registered firm,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 10,000	Nil,
(2) where the total income exceeds Rs 10,000 but does not exceed Rs 25,000	4 per cent of the amount by which the total income exceeds Rs 10,000,
(3) where the total income exceeds Rs 25,000 but does not exceed Rs 50,000	Rs 600 *plus* 6 per cent of the amount by which the total income exceeds Rs 25,000,
(4) where the total income exceeds Rs 50,000 but does not exceed Rs 1,00,000	Rs 2,100 *plus* 12 per cent of the amount by which the total income exceeds Rs 50,000,
(5) where the total income exceeds Rs 1,00,000	Rs 8,100 *plus* 20 per cent of the amount by which the total income exceeds Rs 1,00,000

SURCHARGES ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by the aggregate of surcharges for purposes of the Union calculated as specified hereunder —

(*a*) in the case of a registered firm whose total income includes income derived from a profession carried on by it and the income so included is not less than fifty-one per cent of such total income, a surcharge calculated at the rate of ten per cent of the amount of income-tax computed at the rate hereinbefore specified,

(*b*) in the case of any other registered firm, a surcharge calculated at the rate of twenty per cent of the amount of income-tax computed at the rate hereinbefore specified, and

(*c*) a special surcharge calculated at the rate of ten per cent on the aggregate of the following amounts, namely —

(*i*) the amount of income-tax computed at the rate hereinbefore specified, and

(*ii*) the amount of the surcharge calculated in accordance with clause (*a*) or, as the case may be, clause (*b*) of this Sub-Paragraph

Paragraph D

In the case of every local authority,—

RATE OF INCOME-TAX

On the whole of the total income	50 per cent

SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax

Paragraph E

In the case of the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956),—

of the said Act from any payment referred to in the said sub-section (9) or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be so calculated, charged, deducted or computed at the rate or rates specified in Part III of the First Schedule.

(6) For the purposes of this section and the First Schedule,—

(*a*) "company in which the public are substantially interested" means a company which is such a company as is referred to in section 108 of the Income-tax Act,

(*b*) "domestic company" means an Indian company, or any other company which, in respect of its income liable to income-tax under the Income-tax Act for the assessment year commencing on the 1st day of April, 1970, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income in accordance with the provisions of section 194 of that Act,

(*c*) "industrial company" means a company which is mainly engaged in the business of generation or distribution of electricity or any other form of power or in the construction of ships or in the manufacture or processing of goods or in mining,

Explanation—For the purposes of this clause, a company shall be deemed to be mainly engaged in the business of generation or distribution of electricity or any other form of power or in the construction of ships or in the manufacture or processing of goods or in mining, if the income attributable to any one or more of the aforesaid activities included in its total income of the previous year (as computed before making any deduction under Chapter VI-A of the Income-tax Act) is not less than fifty-one per cent. of such total income,

(*d*) "tax-free security" means any security of the Central Government issued or declared to be income-tax free, or any security of a State Government issued income-tax free, the income-tax whereon is payable by the State Government,

(*e*) all other words and expressions used in this section and the First Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings, respectively, assigned to them in that Act

* * *

THE FIRST SCHEDULE

[See section 2]

PART I

Income-tax and surcharges on income-tax

Paragraph A

In the case of every individual or Hindu undivided family or unregistered firm or other association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

THE FINANCE ACT, 1970

(ACT NO. XIX OF 1970)

(Received the assent of the President on 14th May 1970.)

CHAPTER I

PRELIMINARY

1. Short title and commencement—(1) This Act may be called the Finance Act, 1970

(2) Save as otherwise provided in this Act, sections 2 to 27 (both inclusive) and sections 38 and 39 shall be deemed to have come into force on the 1st day of April, 1970

CHAPTER II

RATES OF INCOME-TAX

2. Income-tax.—(1) Subject to the provisions of sub-sections (2) and (3), for the assessment year commencing on the 1st day of April, 1970, income-tax shall be charged at the rates specified in Part I of the First Schedule and, in the cases to which Paragraphs A, B, C and D of that Part apply, shall be increased by a surcharge for purposes of the Union and in the cases to which Paragraph C applies, also by a special surcharge for purposes of the Union, calculated in each case in the manner provided therein

(2) In making any assessment for the assessment year commencing on the 1st day of April, 1970, where the total income of a company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956), includes any profits and gains from life insurance business, the income-tax payable by it shall be the aggregate of the income-tax calculated—

(*i*) on the amount of profits and gains from life insurance business so included, at the rate applicable in the case of the Life Insurance Corporation of India, in accordance with Paragraph E of Part I of the First Schedule, to that part of its total income which consists of profits and gains from life insurance business, and

(*ii*) on the remaining part of its total income, at the rate applicable to the company on its total income

(3) In cases to which Chapter XII of the Income-tax Act, 1961 (XLIII of 1961), (hereinafter referred to as the Income-tax Act) applies, the tax chargeable shall be determined as provided in that Chapter, and with reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter, as the case may be

(4) In cases in which tax has to be deducted under sections 193, 194, 194A and 195 of the Income-tax Act at the rates in force, the deduction shall be made at the rates specified in Part II of the First Schedule

(5) In cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or deducted under sub-section (9) of section 80E

(c) Rs 240 . . in the case of a married individual who has one child mainly dependent on him,

(d) Rs 260 . . in the case of a married individual who has more than one child mainly dependent on him,

so, however, that in the case of a married individual whose spouse has a total income exceeding Rs 4,000, this clause shall have effect as if for the amounts of Rs 220, Rs 240 and Rs 260, the amounts of Rs 145, Rs 165 and Rs 185 had, respectively, been substituted,

(iii) where such person is an individual not falling under clause (ii) or a Hindu undivided family, the income-tax computed at the rate hereinbefore specified shall be reduced by so much of the amount specified hereunder, as does not exceed the amount of income-tax so computed —

(a) Rs 125 in the case of an unmarried individual,

(b) Rs 200 . in the case of a married individual who has no child mainly dependent on him or a Hindu undivided family which has no minor coparcener,

(c) Rs 220 . in the case of a married individual who has one child mainly dependent on him or a Hindu undivided family which has one minor coparcener mainly supported from the income of such family,

(d) Rs 240 in the case of a married individual who has more than one child mainly dependent on him or a Hindu undivided family which has more than one minor coparcener mainly supported from the income of such family,

so, however, that in the case of a married individual whose spouse has a total income exceeding Rs 4,000, this clause shall have effect as if for the amounts of Rs 200, Rs 220, and Rs 240, the amounts of Rs 125, Rs 145, and Rs 165 had, respectively, been substituted,

(iv) (A) where such person is an individual whose total income exceeds Rs 10,000 but does not exceed Rs 20,000 and who has, during the previous year, incurred any expenditure for the maintenance of any one or more of his parents or grand-parents mainly dependent on him, the income-tax payable by him in respect of such total income shall not exceed the aggregate of—

(1) the income-tax which would have been payable by the individual if his total income had been Rs 10,000, and

(2) forty per cent of the amount by which the total income of the individual exceeds Rs 10,000,

(B) where such person is not an individual whose case falls under sub-clause (A) and the toal income of such person does not exceed Rs 20,000, the income-tax payable thereon shall not exceed forty per cent. of the amount by which the total income exceeds the limit specified in sub-clause (a) or, as the case may be, sub-clause (b) of clause (i) of this proviso

Explanation —For the purpose of clause (ii) and sub-clause (A) of clause (iv) of this proviso, a parent or grand-parent of an individual shall not be treated as being mainly dependent on such individual if the income of the parent or, as the case may be, the grand-parent from all sources in respect of the previous year exceeds one thousand rupees

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 5,000	5 per cent of the total income,
(2) where the total income exceeds Rs 5,000 but does not exceed Rs 10,000	Rs 250 *plus* 10 per cent of the amount by which the total income exceeds Rs 5,000,
(3) where the total income exceeds Rs 10,000 but does not exceed Rs 15,000	Rs 750 *plus* 17 per cent of the amount by which the total income exceeds Rs 10,000,
(4) where the total income exceeds Rs 15,000 but does not exceed Rs 20,000	Rs 1,600 *plus* 23 per cent of the amount by which the total income exceeds Rs 15,000,
(5) where the total income exceeds Rs 20,000 but does not exceed Rs 25,000	Rs 2,750 *plus* 30 per cent of the amount by which the total income exceeds Rs 20,000,
(6) where the total income exceeds Rs 25,000 but does not exceed Rs 30,000	Rs 4,250 *plus* 40 per cent of the amount by which the total income exceeds Rs 25,000,
(7) where the total income exceeds Rs 30,000 but does not exceed Rs 50,000	Rs 6,250 *plus* 50 per cent of the amount by which the total income exceeds Rs 30,000,
(8) where the total income exceeds Rs 50,000 but does not exceed Rs 70,000	Rs 16,250 *plus* 60 per cent of the amount by which the total income exceeds Rs 50,000,
(9) where the total income exceeds Rs 70,000 but does not exceed Rs 1,00,000	Rs 28,250 *plus* 65 per cent of the amount by which the total income exceeds Rs 70,000,
(10) where the total income exceeds Rs 1,00,000 but does not exceed Rs 2,50,000	Rs 47,750 *plus* 70 per cent of the amount by which the total income exceeds Rs 1,00,000,
(11) where the total income exceeds Rs 2,50,000	Rs 1,52,750 *plus* 75 per cent of the amount by which the total income exceeds Rs 2,50,000

Provided that for the purposes of this Paragraph, in the case of a person, not being a non-resident—

(*i*) no income-tax shall be payable on a total income not exceeding the following limit, namely —

(*a*) Rs 7,000 in the case of every Hindu undivided family which at any time during the previous year satisfies either of the following two conditions, namely —

(*1*) that it has at least two members entitled to claim partition who are not less than eighteen years of age, or

(*2*) that it has at least two members entitled to claim partition who are not lineally descended one from the other and who are not lineally descended from any other living member of the family,

(*b*) Rs 4,000 in every other case,

(*ii*) where such person is an individual whose total income does not exceed Rs 10,000 and who has, during the previous year, incurred any expenditure for the maintenance of any one or more of his parents or grand-parents mainly dependent on him, the income-tax computed at the rate hereinbefore specified shall be reduced by so much of the amount specified hereunder, as does not exceed the amount of income-tax so computed —

(*a*) Rs 145	in the case of an unmarried individual,
(*b*) Rs. 220 . . .	in the case of a married individual who has no child mainly dependent on him,

(c) a special surcharge calculated at the rate of ten per cent on the aggregate of the following amounts, namely —

(i) the amount of income-tax computed at the rate hereinbefore specified, and

(ii) the amount of the surcharge calculated in accordance with clause (a) or, as the case may be, clause (b) of this Sub-Paragraph.

Paragraph D

In the case of every local authority,—

RATE OF INCOME-TAX

On the whole of the total income	50 per cent

SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax

Paragraph E

In the case of the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956),—

RATES OF INCOME-TAX

(i) on that part of its total income which consists of profits and gains from life insurance business	52 5 per cent ,
(ii) on the balance, if any, of the total income	the rate of income-tax applicable, in accordance with Paragraph F of this Part, to the total income of a domestic company which is a company in which the public are substantially interested

Paragraph F

In the case of a company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956),—

RATES OF INCOME-TAX

I. In the case of a domestic company—

(1) where the company is a company in which the public are substantially interested,—	
(i) in a case where the total income does not exceed Rs 50,000	45 per cent of the total income,
(ii) in a case where the total income exceeds Rs. 50,000	55 per cent of the total income,
(2) where the company is not a company in which the public are substantially interested,—	
(i) in the case of an industrial company—	
(a) on so much of the total income as does not exceed Rs 10,00,000	55 per cent ,
(b) on the balance, if any, of the total income	60 per cent ,
(ii) in any other case	65 per cent of the total income

SURCHARGE ON INCOME-TAX

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax

Paragraph B

In the case of every co-operative society,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 10,000	15 per cent of the total income,
(2) where the total income exceeds Rs 10,000 but does not exceed Rs 20,000	Rs 1,500 *plus* 25 per cent of the amount by which the total income exceeds Rs 10,000,
(3) where the total income exceeds Rs 20,000	Rs 4,000 *plus* 40 per cent of the amount by which the total income exceeds Rs 20,000

SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax

Paragraph C

In the case of every registered firm,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 10,000	Nil,
(2) where the total income exceeds Rs 10,000 but does not exceed Rs 25,000	4 per cent of the amount by which the total income exceeds Rs 10,000,
(3) where the total income exceeds Rs 25,000 but does not exceed Rs 50,000	Rs 600 *plus* 6 per cent of the amount by which the total income exceeds Rs 25,000,
(4) where the total income exceeds Rs 50,000 but does not exceed Rs 1,00,000	Rs. 2,100 *plus* 12 per cent of the amount by which the total income exceeds Rs 50,000,
(5) where the total income exceeds Rs 1,00,000	Rs 8,100 *plus* 20 per cent of the amount by which the total income exceeds Rs 1,00,000

SURCHARGES ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by the aggregate of surcharges for purposes of the Union calculated as specified hereunder —

(*a*) in the case of a registered firm whose total income includes income derived from a profession carried on by it and the income so included is not less than fifty-one per cent of such total income, a surcharge calculated at the rate of ten per cent of the amount of income-tax computed at the rate hereinbefore specified,

(*b*) in the case of any other registered firm, a surcharge calculated at the rate of twenty per cent of the amount of income-tax computed at the rate hereinbefore specified, and

of section 22 or section 34, as the case may be, his executor, administrator or other legal representative shall, on the serving of the notice under sub-section (2) of section 22 or under section 34, as the case may be, comply therewith, and the Income-tax Officer may proceed to assess the total income of the deceased person as if such executor, administrator or other legal representative were the assessee]

(3) Where a person dies, without having furnished a return which he has been required to furnish under the provisions [5]* * of section 22, or having furnished a return which the Income-tax Officer has reason to believe to be incorrect or incomplete, the Income-tax Officer may make an assessment of the total income of such person and determine the tax payable by him on the basis of such assessment, and for this purpose may, [6][by the issue of the appropriate notice which would have had to be served upon the deceased person had he survived,] require from the executor, administrator or other legal representative of the deceased person any accounts, documents or other evidence which he might under the provisions of sections 22 and 23 have required from the deceased person]

25. Assessment in case of discontinued business.—(1) Where any business, profession or vocation [7][to which sub-section (3) is not applicable], is discontinued in any year, an assessment may be made in that year on the basis of the income, profits or gains of the period between the end of the previous year and the date of such discontinuance in addition to the assessment, if any, made on the basis of the income, profits or gains of the previous year

(2) Any person discontinuing any such business, profession or vocation shall give to the Income-tax Officer notice of such discontinuance within fifteen days thereof, and, where any person fails to give the notice required by this sub-section, the Income-tax Officer may direct that a sum shall be recovered from him by way of penalty not exceeding the amount of tax subsequently assessed on him in respect of any income, profits or gains of the business, profession or vocation up to the date of its discontinuance

(3) Where any business, profession or vocation [8]* * on which tax was at any time charged under the provisions of the Indian Income-tax Act, 1918 (VII of 1918), is discontinued, [9][then, unless there has been a succession by virtue of which the provisions of sub-section (4) have been rendered applicable] no tax shall be payable in respect of the income, profits and gains of the period between the end of the previous year and the date of such discontinuance, and the assessee may further claim that the income, profits and gains of the previous year shall be deemed to have been the income, profits and gains of the said period Where any such claim is made, an assessment shall be made on the basis of the income, profits and gains of the said period, and if an amount of tax has already been paid in respect of the income, profits and gains of the previous year exceeding the amount payable on the basis of such assessment, a refund shall be given of the difference

[10][(4) Where the person who was at the commencement of the Indian Income-tax (Amendment) Act, 1939 (VII of 1939), carrying on any business, profession or vocation on which tax was at any time charged under the provisions of the Indian Income-tax Act, 1918, is succeeded in such capacity by another person, the change not being merely a change in the constitution of a partnership, no tax shall be payable by the

[5] "Of sub-section (2)" omitted by s 29, Indian I T (Amendment) Act, 1939
[6] Inserted, *ibid*
[7] Substituted for "on which income-tax was not at any time charged under the provisions of the Indian Income-tax Act, 1918" by s 7, Indian I T (Amendment) Act, 1944
[8] "Which was in existence at the commencement of this Act and" omitted by s 6, Indian I T (Amendment) Act, 1924
[9] Inserted by s 30, Indian I T (Amendment) Act, 1939
[10] Sub-ss (4) and (5) inserted, *ibid*

Provided that the income-tax payable by a domestic company, being a company in which the public are substantially interested, the total income of which exceeds Rs. 50,000, shall not exceed the aggregate of—

(a) the income-tax which would have been payable by the company if its total income had been Rs. 50,000 (the income of Rs. 50,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the company); and

(b) eighty per cent. of the amount by which its total income exceeds Rs 50,000.

II In the case of a company other than a domestic company—

(i) on so much of the total income as consists of— (a) royalties received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1961, or (b) fees for rendering technical services received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 29th day of February, 1964, and where such agreement has, in either case, been approved by the Central Government	50 per cent ,
(ii) on the balance, if any, of the total income	70 per cent.

PART II

Rates for deduction of tax at source in certain cases

In every case in which under the provisions of sections 193, 194, 194A and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to deduction, at the following rates.—

	Income-tax	
	Rate of income-tax	Rate of surcharge
1 In the case of a person other than a company—		
(a) where the person is resident—		
(i) on income by way of interest other than "Interest on securities" .	10 per cent	Nil;
(ii) on any other income (excluding interest payable on a tax-free security)	20 per cent	2 per cent ,
(b) where the person is not resident in India—		
(i) on the whole income (excluding interest payable on a tax-free security) .	income-tax at 30 per cent and surcharge at 3 per cent of the amount of the income *or* income-tax and surcharge on income-tax in respect of the income at the rates prescribed in Paragraph A of Part III of this Schedule, if such income had been the total income, whichever is higher,	
(ii) on the income by way of interest payable on a tax-free security .	15 per cent	1 5 per cent

	Income-tax	
	Rate of income-tax	Rate of surcharge
2 In the case of a company—		
(*a*) where the company is a domestic company—		
(*i*) on income by way of interest other than "Interest on securities"	20 per cent	Nil,
(*ii*) on any other income (excluding interest payable on a tax-free security)	22 per cent	Nil,
(*b*) where the company is not a domestic company—		
(*i*) on the income by way of dividends payable by an Indian company as is referred to in clause (*a*)(*i*) of sub-section (1) of section 80M of the Income-tax Act	14 per cent	Nil,
(*ii*) on the income by way of dividends payable by any domestic company other than a company referred to in (*i*) hereinabove	24 5 per cent	Nil,
(*iii*) on the income by way of royalties payable by an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1961, and which has been approved by the Central Government	50 per cent	Nil,
(*iv*) on the income by way of fees payable by an Indian concern for rendering technical services in pursuance of an agreement made by it with the Indian concern after the 29th day of February, 1964, and which has been approved by the Central Government	50 per cent	Nil,
(*v*) on the income by way of interest payable on a tax-free security	44 per cent	Nil,
(*vi*) on any other income	70 per cent	Nil

PART III

Rates for calculating or charging income-tax in certain cases, deducting income-tax from income chargeable under the head "Salaries" or any payment referred to in sub-section (9) of section 80E and computing "advance tax"

In cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or deducted under sub-section (9) of section 80E of the said Act from any payment referred to in the said sub-section (9) or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be so calculated, charged, deducted or computed at the following rate or rates:—

Paragraph A

In the case of every individual or Hindu undivided family or unregistered firm or other association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 5,000	Nil,
(2) where the total income exceeds Rs 5,000 but does not exceed Rs 10,000	10 per cent of the amount by which the total income exceeds Rs 5,000,
(3) where the total income exceeds Rs 10,000 but does not exceed Rs 15,000	Rs 500 *plus* 17 per cent of the amount by which the total income exceeds Rs 10,000,
(4) where the total income exceeds Rs 15,000 but does not exceed Rs. 20,000	Rs 1,350 *plus* 23 per cent of the amount by which the total income exceeds Rs 15,000,
(5) where the total income exceeds Rs 20,000 but does not exceed Rs. 25,000	Rs 2,500 *plus* 30 per cent of the amount by which the total income exceeds Rs 20,000,
(6) where the total income exceeds Rs 25,000 but does not exceed Rs 30,000	Rs 4,000 *plus* 40 per cent of the amount by which the total income exceeds Rs 25,000,
(7) where the total income exceeds Rs 30,000 but does not exceed Rs 40,000	Rs 6,000 *plus* 50 per cent of the amount by which the total income exceeds Rs 30,000,
(8) where the total income exceeds Rs 40,000 but does not exceed Rs 60,000	Rs 11,000 *plus* 60 per cent of the amount by which the total income exceeds Rs 40,000,
(9) where the total income exceeds Rs 60,000 but does not exceed Rs 80,000	Rs 23,000 *plus* 70 per cent of the amount by which the total income exceeds Rs 60,000,
(10) where the total income exceeds Rs 80,000 but does not exceed Rs 1,00,000	Rs 37,000 *plus* 75 per cent of the amount by which the total income exceeds Rs 80,000,
(11) where the total income exceeds Rs 1,00,000 but does not exceed Rs 2,00,000	Rs 52,000 *plus* 80 per cent of the amount by which the total income exceeds Rs 1,00,000,
(12) where the total income exceeds Rs 2,00,000	Rs 1,32,000 *plus* 85 per cent of the amount by which the total income exceeds Rs 2,00,000

Provided that for the purposes of this Paragraph, in the case of a Hindu undivided family which at any time during the previous year relevant to the assessment year commencing on the 1st day of April, 1971, satisfies either of the following two conditions, namely —

(*a*) that it has at least two members entitled to claim partition who are not less than eighteen years of age, or

(*b*) that it has at least two members entitled to claim partition who are not lineally descended one from the other and who are not lineally descended from any other living member of the family,—

(*i*) no income-tax shall be payable on a total income not exceeding Rs. 7,000,

(*ii*) where the total income exceeds Rs 7,000 but does not exceed Rs 7,660, the income-tax payable thereon shall not exceed forty per cent of the amount by which the total income exceeds Rs 7,000

SURCHARGE ON INCOME-TAX

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax

Paragraph B

In the case of every co-operative society,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 10,000	15	per cent of the total income,
(2) where the total income exceeds Rs 10,000 but does not exceed Rs 20,000	Rs	1,500 *plus* 25 per cent of the amount by which the total income exceeds Rs 10,000,
(3) where the total income exceeds Rs 20,000	Rs	4,000 *plus* 40 per cent of the amount by which the total income exceeds Rs 20,000

SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax.

Paragraph C

In the case of every registered firm,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 10,000	Nil,	
(2) where the total income exceeds Rs 10,000 but does not exceed Rs 25,000	4	per cent of the amount by which the total income exceeds Rs 10,000,
(3) where the total income exceeds Rs 25,000 but does not exceed Rs 50,000	Rs	600 *plus* 6 per cent of the amount by which the total income exceeds Rs 25,000,
(4) where the total income exceeds Rs 50,000 but does not exceed Rs 1,00,000	Rs	2,100 *plus* 12 per cent of the amount by which the total income exceeds Rs 50,000,
(5) where the total income exceeds Rs 1,00,000	Rs	8,100 *plus* 20 per cent of the amount by which the total income exceeds Rs 1,00,000

SURCHARGES ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by the aggregate of surcharges for purposes of the Union calculated as specified hereunder —

(*a*) in the case of a registered firm whose total income includes income derived from a profession carried on by it and the income so included is not less than fifty-one per cent of such total income, a surcharge calculated at the rate of ten per cent of the amount of income-tax computed at the rate hereinbefore specified,

(*b*) in the case of any other registered firm, a surcharge calculated at the rate of twenty per cent of the amount of income-tax computed at the rate hereinbefore specified, and

(*c*) a special surcharge calculated at the rate of ten per cent on the aggregate of the following amounts, namely —

(*i*) the amount of income-tax computed at the rate hereinbefore specified, and

(*ii*) the amount of the surcharge calculated in accordance with clause (*a*) or, as the case may be, clause (*b*) of this Sub-Paragraph.

Paragraph D

In the case of every local authority,—

RATE OF INCOME-TAX

On the whole of the total income	50 per cent

SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax

Paragraph E

In the case of the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956),—

RATES OF INCOME-TAX

(*i*) on that part of its total income which consists of profits and gains from life insurance business	52 5 per cent ,
(*ii*) on the balance, if any, of the total income	the rate of income-tax applicable in accordance with Paragraph F of this Part, to the total income of a domestic company which is a company in which the public are substantially interested

Paragraph F

In the case of a company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956),—

RATES OF INCOME-TAX

I In the case of a domestic company—

(1) where the company is a company in which the public are substantially interested,—	
(*i*) in a case where the total income does not exceed Rs 50,000	45 per cent of the total income,
(*ii*) in a case where the total income exceeds Rs 50,000	55 per cent of the total income,
(2) where the company is not a company in which the public are substantially interested,—	
(*i*) in the case of an industrial company—	
(*a*) on so much of the total income as does not exceed Rs 10,00,000	55 per cent ;
(*b*) on the balance, if any, of the total income	60 per cent ,
(*ii*) in any other case	65 per cent of the total income

Provided that the income-tax payable by a domestic company, being a company in which the public are substantially interested, the total income of which exceeds Rs 50,000, shall not exceed the aggregate of—

(*a*) the income-tax which would have been payable by the company if its total income had been Rs 50,000 (the income of Rs 50,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the company), and

(*b*) eighty per cent of the amount by which its total income exceeds Rs 50,000.

II. In the case of a company other than a domestic company—

(*i*) on so much of the total income as consists of—	
(*a*) royalties received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1961, or	
(*b*) fees for rendering technical services received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 29th day of February, 1964,	
and where such agreement has, in either case, been approved by the Central Government	50 per cent ,
(*ii*) on the balance, if any, of the total income	70 per cent

* * *

THE FINANCE (No. 2) ACT, 1971

(ACT NO XXXII OF 1971)

(Received the assent of the President on 10th August 1971)

CHAPTER I

PRELIMINARY

1. Short title and commencement.—(1) This Act may be called the Finance (No 2) Act, 1971

(2) Save as otherwise provided in this Act, sections 2 to 38 and sections 53 and 54 shall be deemed to have come into force on the 1st day of April, 1971.

CHAPTER II

RATES OF INCOME-TAX

2. Income-tax.—(1) Subject to the provisions of sub-sections (2) and (3), for the assessment year commencing on the 1st day of April, 1971, income-tax shall be charged at the rates specified in Part I of the First Schedule and, in the cases to which Paragraphs A, B, C and D of that Part apply, shall be increased by a surcharge for purposes of the Union and in the cases to which Paragraph C applies, also by a special surcharge for purposes of the Union, calculated in each case in the manner provided therein

(2) In making any assessment for the assessment year commencing on the 1st day of April, 1971, where the total income of a company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956), includes any profits and gains from life insurance business, the income-tax payable by it shall be the aggregate of the income-tax calculated—

(*i*) on the amount of profits and gains from life insurance business so included, at the rate applicable in the case of the Life Insurance Corporation of India, in accordance with Paragraph E of Part I of the First Schedule, to that part of its total income which consists of profits and gains from life insurance business, and

(*ii*) on the remaining part of its total income, at the rate applicable to the company on its total income

(3) In cases to which Chapter XII or section 164 of the Income-tax Act, 1961 (XLIII of 1961), (hereinafter referred to as the Income-tax Act) applies, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter or section, as the case may be

(4) In cases in which tax has to be deducted under sections 193, 194, 194A and 195 of the Income-tax Act at the rates in force, the deduction shall be made at the rates specified in Part II of the First Schedule

(5) In cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or deducted under sub-section (9) of section 80E

of the said Act from any payment referred to in the said sub-section (9) or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be so calculated, charged, deducted or computed at the rate or rates specified in Part III of the First Schedule

Provided that in respect of any income chargeable to tax under section 164 of the Income-tax Act at the rate of sixty-five per cent, "advance tax" shall be computed at that rate

(6) For the purposes of this section and the First Schedule,—

(*a*) "company in which the public are substantially interested" means a company which is such a company as is referred to in section 108 of the Income-tax Act,

(*b*) "domestic company" means an Indian company, or any other company which, in respect of its income liable to income-tax under the Income-tax Act for the assessment year commencing on the 1st day of April, 1971, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income in accordance with the provisions of section 194 of that Act,

(*c*) "industrial company" means a company which is mainly engaged in the business of generation or distribution of electricity or any other form of power or in the construction of ships or in the manufacture or processing of goods or in mining,

Explanation—For the purposes of this clause, a company shall be deemed to be mainly engaged in the business of generation or distribution of electricity or any other form of power or in the construction of ships or in the manufacture or processing of goods or in mining, if the income attributable to any one or more of the aforesaid activities included in its total income of the previous year (as computed before making any deduction under Chapter VI-A of the Income-tax Act) is not less than fifty-one per cent of such total income,

(*d*) "tax-free security" means any security of the Central Government issued or declared to be income-tax free, or any security of a State Government issued income-tax free, the income-tax whereon is payable by the State Government,

(*e*) all other words and expressions used in this section and the First Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings, respectively, assigned to them in that Act

* * *

CHAPTER VIII

MISCELLANEOUS

* * *

54. Housing and Urban Development Finance Corporation Private Ltd. to be exempt for a certain period from liability to pay income-tax and surtax.—Notwithstanding anything contained in the Income-tax Act or the Companies (Profits) Surtax Act, 1964 (VII of 1964), the Housing and Urban Development Finance Corporation Private Ltd (a Government company as defined in section 617 of the Companies Act,

1956 (I of 1956)) shall not be liable to pay any tax, under either of the two Acts first-mentioned, on its income, profits or gains for the previous year relevant to the assessment year commencing on the 1st day of April, 1971, and for the nine previous years next following that previous year.

* * *

THE FIRST SCHEDULE

[See section 2]

PART I

Income-tax and surcharges on income-tax

Paragraph A

In the case of every individual or Hindu undivided family or unregistered firm or other association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 5,000	Nil,
(2) where the total income exceeds Rs 5,000 but does not exceed Rs 10,000	10 per cent of the amount by which the total income exceeds Rs 5,000,
(3) where the total income exceeds Rs 10,000 but does not exceed Rs 15,000	Rs 500 *plus* 17 per cent of the amount by which the total income exceeds Rs 10,000,
(4) where the total income exceeds Rs 15,000 but does not exceed Rs 20,000	Rs 1,350 *plus* 23 per cent of the amount by which the total income exceeds Rs 15,000,
(5) where the total income exceeds Rs 20,000 but does not exceed Rs 25,000	Rs 2,500 *plus* 30 per cent of the amount by which the total income exceeds Rs 20,000,
(6) where the total income exceeds Rs 25,000 but does not exceed Rs 30,000	Rs 4,000 *plus* 40 per cent of the amount by which the total income exceeds Rs 25,000,
(7) where the total income exceeds Rs 30,000 but does not exceed Rs 40,000	Rs 6,000 *plus* 50 per cent of the amount by which the total income exceeds Rs 30,000,
(8) where the total income exceeds Rs 40,000 but does not exceed Rs 60,000	Rs 11,000 *plus* 60 per cent of the amount by which the total income exceeds Rs 40,000.
(9) where the total income exceeds Rs 60,000 but does not exceed Rs 80,000	Rs 23,000 *plus* 70 per cent of the amount by which the total income exceeds Rs 60,000,
(10) where the total income exceeds Rs 80,000 but does not exceed Rs 1,00,000	Rs 37,000 *plus* 75 per cent of the amount by which the total income exceeds Rs 80,000,
(11) where the total income exceeds Rs 1,00,000 but does not exceed Rs 2,00,000	Rs 52,000 *plus* 80 per cent of the amount by which the total income exceeds Rs 1,00,000,
(12) where the total income exceeds Rs 2,00,000	Rs 1,32,000 *plus* 85 per cent of the amount by which the total income exceeds Rs 2,00,000

Provided that for the purposes of this Paragraph, in the case of a Hindu undivided family which at any time during the previous year satisfies either of the following two conditions, namely —

(a) that it has at least two members entitled to claim partition who are not less than eighteen years of age, or

(b) that it has at least two members entitled to claim partition who are not lineally descended one from the other and who are not lineally descended from any other living member of the family,—

(i) no income-tax shall be payable on a total income not exceeding Rs 7,000,

(ii) where the total income exceeds Rs 7,000 but does not exceed Rs 7,660, the income-tax payable thereon shall not exceed forty per cent of the amount by which the total income exceeds Rs 7,000

SURCHARGE ON INCOME-TAX

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax.

Paragraph B

In the case of every co-operative society,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 10,000	15 per cent of the total income,
(2) where the total income exceeds Rs 10,000 but does not exceed Rs 20,000	Rs 1,500 *plus* 25 per cent of the amount by which the total income exceeds Rs 10,000,
(3) where the total income exceeds Rs 20,000	Rs 4 000 *plus* 40 per cent of the amount by which the total income exceeds Rs 20,000

SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax

Paragraph C

In the case of every registered firm,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 10,000	Nil,
(2) where the total income exceeds Rs 10,000 but does not exceed Rs 25,000	4 per cent of the amount by which the total income exceeds Rs 10,000,
(3) where the total income exceeds Rs 25,000 but does not exceed Rs 50,000	Rs 600 *plus* 6 per cent of the amount by which the total income exceeds Rs 25,000,
(4) where the total income exceeds Rs 50,000 but does not exceed Rs 1,00,000	Rs 2,100 *plus* 12 per cent of the amount by which the total income exceeds Rs 50,000,

first mentioned person in respect of the income, profits and gains of the period between the end of the previous year and the date of such succession, and such person may further claim that the income, profits and gains of the previous year shall be deemed to have been the income, profits and gains of the said period. Where any such claim is made, an assessment shall be made on the basis of the income, profits and gains of the said period, and, if an amount of tax has already been paid in respect of the income, profits and gains of the previous year exceeding the amount payable on the basis of such assessment, a refund shall be given of the difference

[11][Provided that sub-sections (3) and (4) shall not apply—

(a) to super-tax except where the income, profits and gains of the business, profession or vocation were assessed to super-tax for the first time either for the year beginning on the 1st day of April, 1920, or for the year beginning on the 1st day of April, 1921,

(b) to a business, profession or vocation on which income-tax was at any time charged in the hands of a company under the Indian Income-tax Act, 1886 (II of 1886), or on which income-tax would have been charged in the hands of a company for the assessment year ending on the 31st day of March, 1918, if the company having been in existence in that year had also been in existence in the year ending on the 31st day of March, 1917.]

(5) No claim to the relief afforded under sub-section (3) or sub-section (4) shall be entertained unless it is made before the expiry of one year from the date on which the business, profession or vocation was discontinued or the succession took place, as the case may be]

[12][(6)] Where an assessment is to be made under [13][sub-section (1), sub-section (3) or sub-section (4)], the Income-tax Officer may serve on the person whose income, profits and gains are to be assessed or, in the case of a firm, on any person who was a member of such firm at the time of its discontinuance, or, in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 22, and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section

[14][**25A. Assessment after partition of a Hindu undivided family.**—(1) Where, at the time of making an assessment under section 23, it is claimed by or on behalf of any member of a Hindu family hitherto [15][assessed as] undivided that a partition has taken place among the members of such family, the Income-tax Officer shall make such inquiry thereinto as he may think fit, and, if he is satisfied [16]* * that the joint family property has been partitioned among the various members or groups of members in definite portions [17]* * he shall record an order to that effect

Provided that no such order shall be recorded until notices of the inquiry have been served on all the members of the family

(2) Where such an order has been passed, [18][or where any person has succeeded to a business, profession or vocation formerly carried on by a Hindu undivided family whose joint family property has been partitioned on or after the last day on

[11] Inserted by s 14, Indian I T (Amendment) Act, 1941
[12] Sub-s (4) renumbered "(6)" by s 30, Indian I T (Amendment) Act, 1939
[13] Substituted for "sub-section (1) or sub-section (3)", ibid
[14] Inserted by s 4, Indian I T (Amendment) Act, 1928
[15] Inserted by s 3, Indian I T (Second Amendment) Act, 1930
[16] "That a separation of members of the family has taken place and" omitted by s 31, Indian I T (Amendment) Act, 1939
[17] "Before the end of the previous year" omitted by s 3, Indian I T (Second Amendment) Act, 1930
[18] Inserted by s 31, Indian I T (Amendment) Act, 1939

Paragraph F

In the case of a company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956),—

RATES OF INCOME-TAX

I In the case of a domestic company—

(1) where the company is a company in which the public are substantially interested,—	
(*i*) in a case where the total income does not exceed Rs 50,000	45 per cent of the total income,
(*ii*) in a case where the total income exceeds Rs 50,000	55 per cent of the total income,
(2) where the company is not a company in which the public are substantially interested,—	
(*i*) in the case of an industrial company—	
(*a*) on so much of the total income as does not exceed Rs 10,00,000	55 per cent ,
(*b*) on the balance, if any, of the total income	60 per cent ,
(*ii*) in any other case	65 per cent of the total income

Provided that the income-tax payable by a domestic company, being a company in which the public are substantially interested, the total income of which exceeds Rs 50,000, shall not exceed the aggregate of—

(*a*) the income-tax which would have been payable by the company if its total income had been Rs 50,000 (the income of Rs 50,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the company), and

(*b*) eighty per cent of the amount by which its total income exceeds Rs 50,000.

II. In the case of a company other than a domestic company—

(*i*) on so much of the total income as consists of—	
(*a*) royalties received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1961, or	
(*b*) fees for rendering technical services received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 29th day of February, 1964,	
and where such agreement has, in either case, been approved by the Central Government	50 per cent ,
(*ii*) on the balance, if any, of the total income	70 per cent

(5) where the total income exceeds Rs. 1,00,000	Rs 8,100 *plus* 20 per cent. of the amount by which the total income exceeds Rs 1,00,000

SURCHARGES ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by the aggregate of surcharges for purposes of the Union calculated as specified hereunder.—

(*a*) in the case of a registered firm whose total income includes income derived from a profession carried on by it and the income so included is not less than fifty-one per cent of such total income, a surcharge calculated at the rate of ten per cent of the amount of income-tax computed at the rate hereinbefore specified,

(*b*) in the case of any other registered firm, a surcharge calculated at the rate of twenty per cent of the amount of income-tax computed at the rate hereinbefore specified, and

(*c*) a special surcharge calculated at the rate of ten per cent on the aggregate of the following amounts, namely·—

(*i*) the amount of income-tax computed at the rate hereinbefore specified; and

(*ii*) the amount of the surcharge calculated in accordance with clause (*a*) or, as the case may be, clause (*b*) of this Sub-Paragraph.

Explanation —For the purposes of this Paragraph, "registered firm" includes an unregistered firm assessed as a registered firm under clause (*b*) of section 183 of the Income-tax Act.

Paragraph D

In the case of every local authority,—

RATE OF INCOME-TAX

On the whole of the total income	50 per cent.

SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax

Paragraph E

In the case of the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956),—

RATES OF INCOME-TAX

(*i*) on that part of its total income which consists of profits and gains from life insurance business	52 5 per cent ,
(*ii*) on the balance, if any, of the total income	the rate of income-tax applicable, in accordance with Paragraph F of this Part, to the total income of a domestic company which is a company in which the public are substantially interested

PART III

Rates for calculating or charging income-tax in certain cases, deducting income-tax from income chargeable under the head "Salaries" or any payment referred to in sub-section (9) of section 80E and computing "advance tax"

In cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or deducted under sub-section (9) of section 80E of the said Act from any payment referred to in the said sub-section (9) or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force, such income-tax or, as the case may be, "advance tax" (not being "advance tax" in respect of any income chargeable to tax under section 164 of the Income-tax Act at the rate of sixty-five per cent) shall be so calculated, charged, deducted or computed at the following rate or rates —

Paragraph A

In the case of every individual or Hindu undivided family or unregistered firm or other association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 5,000	Nil,
(2) where the total income exceeds Rs 5,000 but does not exceed Rs 10,000	10 per cent of the amount by which the total income exceeds Rs 5,000,
(3) where the total income exceeds Rs 10,000 but does not exceed Rs 15,000	Rs 500 *plus* 17 per cent of the amount by which the total income exceeds Rs 10,000,
(4) where the total income exceeds Rs 15,000 but does not exceed Rs 20,000	Rs 1,350 *plus* 23 per cent of the amount by which the total income exceeds Rs 15,000,
(5) where the total income exceeds Rs 20,000 but does not exceed Rs 25,000	Rs 2,500 *plus* 30 per cent of the amount by which the total income exceeds Rs 20,000,
(6) where the total income exceeds Rs 25,000 but does not exceed Rs 30,000	Rs 4,000 *plus* 40 per cent of the amount by which the total income exceeds Rs 25,000,
(7) where the total income exceeds Rs 30,000 but does not exceed Rs 40,000	Rs 6,000 *plus* 50 per cent of the amount by which the total income exceeds Rs 30,000,
(8) where the total income exceeds Rs 40,000 but does not exceed Rs 60,000	Rs 11,000 *plus* 60 per cent of the amount by which the total income exceeds Rs 40,000,
(9) where the total income exceeds Rs 60,000 but does not exceed Rs 80,000	Rs 23,000 *plus* 70 per cent of the amount by which the total income exceeds Rs 60,000,
(10) where the total income exceeds Rs 80,000 but does not exceed Rs 1,00,000	Rs 37,000 *plus* 75 per cent of the amount by which the total income exceeds Rs 80,000,

PART II

Rates for deduction of tax at source in certain cases

In every case in which under the provisions of sections 193, 194, 194A and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to deduction, at the following rates:—

	Income-tax	
	Rate of income-tax	Rate of surcharge
1 In the case of a person other than a company—		
(a) where the person is resident—		
(i) on income by way of interest other than "Interest on securities"	10 per cent	Nil,
(ii) on any other income (excluding interest payable on a tax-free security)	20 per cent	3 per cent ,
(b) where the person is not resident in India—		
(i) on the whole income (excluding interest payable on a tax-free security)	income-tax at 30 per cent and surcharge at 4 5 per cent of the amount of the income *or* income-tax and surcharge on income-tax in respect of the income at the rates prescribed in Paragraph A of Part III of this Schedule, if such income had been the total income, whichever is higher,	
(ii) on the income by way of interest payable on a tax-free security	15 per cent	2.25 per cent
2 In the case of a company—		
(a) where the company is a domestic company—		
(i) on income by way of interest other than "Interest on securities"	20 per cent	Nil,
(ii) on any other income (excluding interest payable on a tax-free security)	22 per cent	Nil,
(b) where the company is not a domestic company—		
(i) on the income by way of dividends payable by any domestic company	24 5 per cent	Nil,
(ii) on the income by way of royalties payable by an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1961, and which has been approved by the Central Government	50 per cent	Nil,
(iii) on the income by way of fees payable by an Indian concern for rendering technical services in pursuance of an agreement made by it with the Indian concern after the 29th day of February, 1964, and which has been approved by the Central Government	50 per cent	Nil,
(iv) on the income by way of interest payable on a tax-free security	44 per cent	Nil,
(v) on any other income	70 per cent	Nil

SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union calculated at the rate of fifteen per cent of such income-tax.

Paragraph C

In the case of every registered firm,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 10,000	Nil,	
(2) where the total income exceeds Rs 10,000 but does not exceed Rs 25,000	4	per cent of the amount by which the total income exceeds Rs 10,000,
(3) where the total income exceeds Rs 25,000 but does not exceed Rs 50,000	Rs	600 *plus* 6 per cent of the amount by which the total income exceeds Rs 25,000,
(4) where the total income exceeds Rs 50,000 but does not exceed Rs 1,00,000	Rs	2,100 *plus* 12 per cent of the amount by which the total income exceeds Rs 50,000,
(5) where the total income exceeds Rs 1,00,000	Rs	8,100 *plus* 20 per cent of the amount by which the total income exceeds Rs 1,00,000

SURCHARGES ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by the aggregate of surcharges for purposes of the Union calculated as specified hereunder —

(*a*) in the case of a registered firm whose total income includes income derived from a profession carried on by it and the income so included is not less than fifty-one per cent of such total income, a surcharge calculated at the rate of ten per cent of the amount of income-tax computed at the rate hereinbefore specified,

(*b*) in the case of any other registered firm, a surcharge calculated at the rate of twenty per cent of the amount of income-tax computed at the rate hereinbefore specified, and

(*c*) a special surcharge calculated at the rate of fifteen per cent on the aggregate of the following amounts, namely —

(*i*) the amount of income-tax computed at the rate hereinbefore specified, and

(*ii*) the amount of the surcharge calculated in accordance with clause (*a*) or, as the case may be, clause (*b*) of this Sub-Paragraph

Explanation —For the purposes of this Paragraph, "registered firm" includes an unregistered firm assessed as a registered firm under clause (*b*) of section 183 of the Income-tax Act

Paragraph D

In the case of every local authority,—

RATE OF INCOME-TAX

On the whole of the total income	50 per cent

(11) where the total income exceeds Rs 1,00,000 but does not exceed Rs 2,00,000	Rs 52,000 *plus* 80 per cent. of the amount by which the total income exceeds Rs 1,00,000,
(12) where the total income exceeds Rs 2,00,000	Rs 1,32,000 *plus* 85 per cent of the amount by which the total income exceeds Rs 2,00,000

Provided that for the purposes of this Paragraph, in the case of a Hindu undivided family which at any time during the previous year relevant to the assessment year commencing on the 1st day of April, 1972, satisfies either of the following two conditions, namely —

(*a*) that it has at least two members entitled to claim partition who are not less than eighteen years of age, or

(*b*) that it has at least two members entitled to claim partition who are not lineally descended one from the other and who are not lineally descended from any other living member of the family,—

(*i*) no income-tax shall be payable on a total income not exceeding Rs 7,000,

(*ii*) where the total income exceeds Rs 7,000 but does not exceed Rs 7,660, the income-tax payable thereon shall not exceed forty per cent. of the amount by which the total income exceeds Rs 7,000

SURCHARGE ON INCOME-TAX

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge for purposes of the Union calculated at the following rates, namely —

(*a*) in a case where the total income does not exceed Rs 15,000	10 per cent ,
(*b*) in any other case	15 per cent.:

Provided that the amount of surcharge payable shall, in no case, exceed the aggregate of the following sums, namely —

(*i*) an amount calculated at the rate of 10 per cent on the amount of income-tax on an income of Rs 15,000, if such income had been the total income (the income of Rs 15,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the person concerned), and

(*ii*) 40 per cent of the amount by which the total income exceeds Rs 15,000

Paragraph B

In the case of every co-operative society,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 10,000	15 per cent of the total income,
(2) where the total income exceeds Rs 10,000 but does not exceed Rs 20,000	Rs 1,500 *plus* 25 per cent of the amount by which the total income exceeds Rs 10,000,
(3) where the total income exceeds Rs 20,000	Rs 4,000 *plus* 40 per cent of the amount by which the total income exceeds Rs 20,000

II. In the case of a company other than a domestic company—

(*i*) on so much of the total income as consists of— (*a*) royalties received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1961, or (*b*) fees for rendering technical services received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 29th day of February, 1964, and where such agreement has, in either case, been approved by the Central Government	50	per cent ,
(*ii*) on the balance, if any, of the total income	70	per cent

* * *

SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union calculated at the rate of fifteen per cent of such income-tax

Paragraph E

In the case of the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956),—

RATES OF INCOME-TAX

(*i*) on that part of its total income which consists of profits and gains from life insurance business	52 5 per cent ,
(*ii*) on the balance, if any, of the total income	the rate of income-tax applicable, in accordance with Paragraph F of this Part, to the total income of a domestic company which is a company in which the public are substantially interested

Paragraph F

In the case of a company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956),—

RATES OF INCOME-TAX

I. In the case of a domestic company—

(1) where the company is a company in which the public are substantially interested,—	
(*i*) in a case where the total income does not exceed Rs 50,000	45 per cent of the total income,
(*ii*) in a case where the total income exceeds Rs 50,000	55 per cent of the total income,
(2) where the company is not a company in which the public are substantially interested,—	
(*i*) in the case of an industrial company—	
(*a*) on so much of the total income as does not exceed Rs 10,00,000	55 per cent ,
(*b*) on the balance, if any, of the total income	60 per cent ,
(*ii*) in any other case	65 per cent of the total income

Provided that the income-tax payable by a domestic company, being a company in which the public are substantially interested, the total income of which exceeds Rs 50,000, shall not exceed the aggregate of—

(*a*) the income-tax which would have been payable by the company if its total income had been Rs 50,000 (the income of Rs 50,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the company), and

(*b*) eighty per cent of the amount by which its total income exceeds Rs 50,000

of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or deducted under sub-section (9) of section 80E of the said Act from any payment referred to in the said sub-section (9) or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be so calculated, charged, deducted or computed at the rate or rates specified in Part III of the First Schedule

Provided that in respect of any income chargeable to tax under section 164 of the Income-tax Act at the rate of sixty-five per cent, "advance tax" shall be computed at that rate

(6) For the purposes of this section and the First Schedule,—

(*a*) "company in which the public are substantially interested" means a company which is such a company as is referred to in section 108 of the Income-tax Act,

(*b*) "domestic company" means an Indian company, or any other company which, in respect of its income liable to income-tax under the Income-tax Act for the assessment year commencing on the 1st day of April, 1972, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income in accordance with the provisions of section 194 of that Act,

(*c*) "industrial company" means a company which is mainly engaged in the business of generation or distribution of electricity or any other form of power or in the construction of ships or in the manufacture or processing of goods or in mining,

Explanation—For the purposes of this clause, a company shall be deemed to be mainly engaged in the business of generation or distribution of electricity or any other form of power or in the construction of ships or in the manufacture or processing of goods or in mining, if the income attributable to any one or more of the aforesaid activities included in its total income of the previous year (as computed before making any deduction under Chapter VI-A of the Income-tax Act) is not less than fifty-one per cent of such total income,

(*d*) "tax-free security" means any security of the Central Government issued or declared to be income-tax free, or any security of a State Government issued income-tax free, the income-tax whereon is payable by the State Government,

(*e*) all other words and expressions used in this section and the First Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings, respectively, assigned to them in that Act

CHAPTER III

DIRECT TAXES

* * *

Miscellaneous

59. Certain casual and non-recurring receipts not to be included in the total income for the assessment year 1972-73.—Notwithstanding the amendments made by this Act

THE FINANCE ACT, 1972

(ACT NO XVI OF 1972)

(*Received the assent of the President on 28th May 1972*)

CHAPTER I

PRELIMINARY

1. **Short title and commencement.**—(1) This Act may be called the Finance Act, 1972

(2) Save as otherwise provided in this Act, sections 2 to 60 shall be deemed to have come into force on the 1st day of April, 1972

CHAPTER II

RATES OF INCOME-TAX

2. **Income-tax.**—(1) Subject to the provisions of sub-sections (2) and (3), for the assessment year commencing on the 1st day of April, 1972, income-tax shall be charged at the rates specified in Part I of the First Schedule and shall be increased,—

(*a*) in the cases to which Paragraphs A, B and D of that Part apply, by a surcharge for purposes of the Union,

(*b*) in the cases to which Paragraph C of that Part applies, by a surcharge for purposes of the Union and a special surcharge for purposes of the Union, and

(*c*) in the cases to which Paragraphs E and F of that Part apply, by a surcharge,

calculated in each case in the manner provided therein

(2) In making any assessment for the assessment year commencing on the 1st day of April, 1972, where the total income of a company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956), includes any profits and gains from life insurance business, the income-tax payable by it shall be the aggregate of the income-tax calculated—

(*i*) on the amount of profits and gains from life insurance business so included, at the rate applicable in the case of the Life Insurance Corporation of India, in accordance with Paragraph E of Part I of the First Schedule, to that part of its total income which consists of profits and gains from life insurance business, and

(*ii*) on the remaining part of its total income, at the rate applicable to the company on its total income

(3) In cases to which Chapter XII or section 164 of the Income-tax Act, 1961 (XLIII of 1961), (hereinafter referred to as the Income-tax Act) applies, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter or section, as the case may be

(4) In cases in which tax has to be deducted under sections 193, 194, 194A, 194B and 195 of the Income-tax Act at the rates in force, the deduction shall be made at the rates specified in Part II of the First Schedule

(5) In cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4)

which it carried on such business, profession or vocation,] the Income-tax Officer shall make an assessment of the total income received by or on behalf of the joint family as such, as if no [19]* * partition had taken place, and each member or group of members shall, in addition to any income-tax for which he or it may be separately liable and notwithstanding anything contained in sub-section (1) of section 14, be liable for a share of the tax on the income so assessed according to the portion of the joint family property allotted to him or it, and the Income-tax Officer shall make assessments accordingly on the various members and groups of members in accordance with the provisions of section 23

Provided that all the [20][members and groups of members whose joint family property has been partitioned] shall be liable jointly and severally for the tax assessed on the total income received by or on behalf of the joint family as such.

[21][(3) Where such an order has not been passed in respect of a Hindu family hitherto assessed as undivided, such family shall be deemed, for the purposes of this Act, to continue to be a Hindu undivided family]]

[22][**26. Change in constitution of a firm.**—(1) Where, at the time of making an assessment under section 23, it is found that a change has occurred in the constitution of a firm or that a firm has been newly constituted, [23][the assessment shall be made on the firm as constituted] at the time of making the assessment

[24][Provided that the income, profits and gains of the previous year shall, for the purpose of inclusion in the total incomes of the partners, be apportioned between the partners who in such previous year were entitled to receive the same

Provided further that when the tax assessed upon a partner cannot be recovered from him it shall be recovered from the firm as constituted at the time of making the assessment]

[25][(2) Where a person carrying on any business, profession or vocation has been succeeded in such capacity by another person, such person and such other person shall, subject to the provisions of sub-section (4) of section 25, each be assessed in respect of his actual share, if any, of the income, profits and gains of the previous year

Provided that, when the person succeeded in the business, profession or vocation cannot be found, the assessment of the profits of the year in which the succession took place up to the date of succession, and for the year preceding that year shall be made on the person succeeding him in like manner and to the same amount as it would have been made on the person succeeded or when the tax in respect of the assessment made for either of such years assessed on the person succeeded cannot be recovered from him, it shall be payable by and recoverable from the person succeeding, and such person shall be entitled to recover from the person succeeded the amount of any tax so paid]]

[1][**26A. Procedure in registration of firms.**—(1) Application may be made to the Income-tax Officer on behalf of any firm, constituted under an instrument of partnership specifying the individual shares of the partners, for registration for the

[19] "Separation or" omitted by s 31, Indian I T (Amendment) Act, 1939
[20] Substituted for "separated members and groups of members", *ibid*
[21] Inserted by s 3, Indian I T (Second Amendment) Act, 1930
[22] Substituted by s 5, Indian I T (Amendment) Act, 1928
[23] Substituted by s 32, Indian I T (Amendment) Act, 1939
[24] Inserted, *ibid*
[25] Substituted, *ibid*
[1] Inserted by s 5, Indian I T (Amendment) Act, 1930

to the Income-tax Act, in computing, in the case of any person, the total income of a previous year relevant to the assessment year commencing on the 1st day of April, 1972, any income falling within clause (*3*) of section 10 of the Income-tax Act as it stood immediately before the 1st day of April, 1972, shall not be included

60. Applicability of revised rate of interest.—For the removal of doubts, it is hereby declared that where interest is payable under—

(*a*) section 139 of the Income-tax Act or any other provision of that Act referred to in section 25 of this Act, or

(*b*) section 31 or section 34A of the Wealth-tax Act; or

(*c*) section 32 or section 33A of the Gift-tax Act, or

(*d*) section 18 of the Companies (Profits) Surtax Act,

in respect of any period commencing on or before the 31st day of March, 1972, and ending after that date, such interest shall, in respect of so much of such period as falls after that date, be calculated at the rate of twelve per cent per annum

* * *

THE FIRST SCHEDULE

[See section 2]

PART I

Income-tax and surcharges on income-tax

Paragraph A

In the case of every individual or Hindu undivided family or unregistered firm or other association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 5,000	Nil,
(2) where the total income exceeds Rs 5,000 but does not exceed Rs 10,000	10 per cent of the amount by which the total income exceeds Rs 5,000,
(3) where the total income exceeds Rs 10,000 but does not exceed Rs 15,000	Rs 500 *plus* 17 per cent of the amount by which the total income exceeds Rs 10,000,
(4) where the total income exceeds Rs 15,000 but does not exceed Rs 20,000	Rs 1,350 *plus* 23 per cent of the amount by which the total income exceeds Rs 15,000,
(5) where the total income exceeds Rs 20,000 but does not exceed Rs 25,000	Rs 2,500 *plus* 30 per cent of the amount by which the total income exceeds Rs 20,000,
(6) where the total income exceeds Rs 25,000 but does not exceed Rs 30,000	Rs 4,000 *plus* 40 per cent of the amount by which the total income exceeds Rs 25,000,
(7) where the total income exceeds Rs 30,000 but does not exceed Rs 40,000	Rs 6,000 *plus* 50 per cent of the amount by which the total income exceeds Rs 30,000,

(8) where the total income exceeds Rs 40,000 but does not exceed Rs 60,000	Rs 11,000 *plus* 60 per cent of the amount by which the total income exceeds Rs 40,000,
(9) where the total income exceeds Rs 60,000 but does not exceed Rs 80,000	Rs 23,000 *plus* 70 per cent of the amount by which the total income exceeds Rs 60,000,
(10) where the total income exceeds Rs 80,000 but does not exceed Rs 1,00,000	Rs 37,000 *plus* 75 per cent of the amount by which the total income exceeds Rs 80,000,
(11) where the total income exceeds Rs 1,00,000 but does not exceed Rs 2,00,000	Rs 52,000 *plus* 80 per cent of the amount by which the total income exceeds Rs 1,00,000,
(12) where the total income exceeds Rs 2,00,000	Rs 1,32,000 *plus* 85 per cent of the amount by which the total income exceeds Rs 2,00,000

Provided that for the purposes of this Paragraph, in the case of a Hindu undivided family which at any time during the previous year satisfies either of the following two conditions, namely —

(*a*) that it has at least two members entitled to claim partition who are not less than eighteen years of age, or

(*b*) that it has at least two members entitled to claim partition who are not lineally descended one from the other and who are not lineally descended from any other living member of the family,—

(*i*) no income-tax shall be payable on a total income not exceeding Rs 7,000,

(*ii*) where the total income exceeds Rs 7,000 but does not exceed Rs. 7,660, the income-tax payable thereon shall not exceed forty per cent of the amount by which the total income exceeds Rs 7,000.

SURCHARGE ON INCOME-TAX

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge for purposes of the Union calculated at the following rates, namely —

(*a*) in a case where the total income does not exceed Rs 15,000	10 per cent ,
(*b*) in any other case	15 per cent

Provided that the amount of surcharge payable shall, in no case, exceed the aggregate of the following sums, namely —

(*i*) an amount calculated at the rate of 10 per cent on the amount of income-tax on an income of Rs 15,000, if such income had been the total income (the income of Rs 15,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the person concerned), and

(*ii*) 40 per cent of the amount by which the total income exceeds Rs. 15,000

Paragraph B

In the case of every co-operative society,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 10,000	15 per cent of the total income,

(2) where the total income exceeds Rs 10,000 but does not exceed Rs 20,000	Rs 1,500 *plus* 25 per cent of the amount by which the total income exceeds Rs 10,000,
(3) where the total income exceeds Rs 20,000	Rs 4,000 *plus* 40 per cent of the amount by which the total income exceeds Rs 20,000

SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union calculated at the rate of fifteen per cent of such income-tax

Paragraph C

In the case of every registered firm,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 10,000	Nil,
(2) where the total income exceeds Rs 10,000 but does not exceed Rs 25,000	4 per cent of the amount by which the total income exceeds Rs 10,000,
(3) where the total income exceeds Rs 25,000 but does not exceed Rs 50,000	Rs 600 *plus* 6 per cent of the amount by which the total income exceeds Rs 25,000,
(4) where the total income exceeds Rs 50,000 but does not exceed Rs 1,00,000	Rs 2,100 *plus* 12 per cent of the amount by which the total income exceeds Rs 50,000,
(5) where the total income exceeds Rs 1,00,000	Rs 8,100 *plus* 20 per cent of the amount by which the total income exceeds Rs 1,00,000

SURCHARGES ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by the aggregate of surcharges for purposes of the Union calculated as specified hereunder —

(*a*) in the case of a registered firm whose total income includes income derived from a profession carried on by it and the income so included is not less than fifty-one per cent of such total income, a surcharge calculated at the rate of ten per cent of the amount of income-tax computed at the rate hereinbefore specified,

(*b*) in the case of any other registered firm, a surcharge calculated at the rate of twenty per cent of the amount of income-tax computed at the rate hereinbefore specified, and

(*c*) a special surcharge calculated at the rate of fifteen per cent on the aggregate of the following amounts, namely —

(*i*) the amount of income-tax computed at the rate hereinbefore specified, and

(*ii*) the amount of the surcharge calculated in accordance with clause (*a*) or, as the case may be, clause (*b*) of this Sub-Paragraph

Explanation —For the purposes of this Paragraph, "registered firm" includes an unregistered firm assessed as a registered firm under clause (*b*) of section 183 of the Income-tax Act

Paragraph D

In the case of every local authority,—

RATE OF INCOME-TAX

On the whole of the total income	50 per cent

SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union calculated at the rate of fifteen per cent of such income-tax

Paragraph E

In the case of the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956),—

RATES OF INCOME-TAX

(i) on that part of its total income which consists of profits and gains from life insurance business	52 5 per cent ,
(ii) on the balance, if any, of the total income	the rate of income-tax applicable, in accordance with Paragraph F of this Part, to the total income of a domestic company which is a company in which the public are substantially interested

SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge calculated at the rate of two and a half per cent of such income-tax

Paragraph F

In the case of a company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956),—

RATES OF INCOME-TAX

I In the case of a domestic company—

(1) where the company is a company in which the public are substantially interested,—	
(i) in a case where the total income does not exceed Rs 50,000	45 per cent of the total income,
(ii) in a case where the total income exceeds Rs 50,000	55 per cent of the total income,
(2) where the company is not a company in which the public are substantially interested,—	
(i) in the case of an industrial company—	
(a) on so much of the total income as does not exceed Rs 10,00,000	55 per cent ,
(b) on the balance, if any, of the total income	60 per cent ,
(ii) in any other case	65 per cent of the total income

Provided that the income-tax payable by a domestic company, being a company in which the public are substantially interested, the total income of which exceeds Rs 50,000, shall not exceed the aggregate of—

(*a*) the income-tax which would have been payable by the company if its total income had been Rs 50,000 (the income of Rs 50,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the company), and

(*b*) eighty per cent of the amount by which its total income exceeds Rs. 50,000

II In the case of a company other than a domestic company—

(*i*) on so much of the total income as consists of—

(*a*) royalties received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1961, or

(*b*) fees for rendering technical services received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 29th day of February, 1964,

and where such agreement has, in either case, been approved by the Central Government — 50 per cent ,

(*ii*) on the balance, if any, of the total income — 70 per cent

SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge calculated at the rate of two and a half per cent of such income-tax

PART II

Rates for deduction of tax at source in certain cases

In every case in which under the provisions of sections 193, 194, 194A, 194B and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to deduction, at the following rates —

	Income-tax	
	Rate of income-tax	Rate of surcharge
1 In the case of a person other than a company—		
(*a*) where the person is resident—		
(*i*) on income by way of interest other than "Interest on securities"	10 per cent	Nil,
(*ii*) on income by way of winnings from lotteries and crossword puzzles .	30 per cent	4 5 per cent ,
(*iii*) on any other income (excluding interest payable on a tax-free security)	20 per cent	3 per cent ,

	Income-tax	
	Rate of income-tax	Rate of surcharge
(b) where the person is not resident in India—		
(i) on the whole income (excluding interest payable on a tax-free security)	income-tax at 30 per cent. and surcharge at 4 5 per cent of the amount of the income *or* income-tax and surcharge on income-tax in respect of the income at the rates prescribed in Paragraph A of Part III of this Schedule, if such income had been the total income, whichever is higher,	
(ii) on the income by way of interest payable on a tax-free security	15 per cent	2 25 per cent
2 In the case of a company—		
(a) where the company is a domestic company—		
(i) on income by way of interest other than "Interest on securities"	20 per cent	1 per cent ,
(ii) on any other income (excluding interest payable on a tax-free security)	22 per cent	1 per cent ,
(b) where the company is not a domestic company—		
(i) on the income by way of dividends payable by any domestic company—	24 5 per cent	1 225 per cent ,
(ii) on the income by way of royalties payable by an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1961, and which has been approved by the Central Government	50 per cent	2 5 per cent ,
(iii) on the income by way of fees payable by an Indian concern for rendering technical services in pursuance of an agreement made by it with the Indian concern after the 29th day of February, 1964, and which has been approved by the Central Government	50 per cent	2 5 per cent ,
(iv) on the income by way of interest payable on a tax-free security	44 per cent	2 2 per cent ,
(v) on any other income	70 per cent	3 5 per cent

PART III

Rates for calculating or charging income-tax in certain cases, deducting income-tax from income chargeable under the head "Salaries" or any payment referred to in sub-section (9) of section 80E and computing "advance tax"

In cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income

chargeable under the head "Salaries" or deducted under sub-section (9) of section 80E of the said Act from any payment referred to in the said sub-section (9) or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force, such income-tax or, as the case may be, "advance tax" (not being "advance tax" in respect of any income chargeable to tax under section 164 of the Income-tax Act at the rate of sixty-five per cent) shall be so calculated, charged, deducted or computed at the following rate or rates —

Paragraph A

In the case of every individual or Hindu undivided family or unregistered firm or other association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 5,000	Nil,
(2) where the total income exceeds Rs 5,000 but does not exceed Rs 10,000	10 per cent of the amount by which the total income exceeds Rs 5,000,
(3) where the total income exceeds Rs 10,000 but does not exceed Rs 15,000	Rs 500 *plus* 17 per cent of the amount by which the total income exceeds Rs 10,000,
(4) where the total income exceeds Rs 15,000 but does not exceed Rs 20,000	Rs 1,350 *plus* 23 per cent of the amount by which the total income exceeds Rs 15,000,
(5) where the total income exceeds Rs 20,000 but does not exceed Rs 25,000	Rs 2,500 *plus* 30 per cent of the amount by which the total income exceeds Rs 20,000,
(6) where the total income exceeds Rs 25,000 but does not exceed Rs 30,000	Rs 4,000 *plus* 40 per cent of the amount by which the total income exceeds Rs 25,000,
(7) where the total income exceeds Rs 30,000 but does not exceed Rs 40,000	Rs 6,000 *plus* 50 per cent of the amount by which the total income exceeds Rs 30,000,
(8) where the total income exceeds Rs 40,000 but does not exceed Rs 60,000	Rs 11,000 *plus* 60 per cent of the amount by which the total income exceeds Rs 40,000,
(9) where the total income exceeds Rs 60,000 but does not exceed Rs 80,000	Rs 23,000 *plus* 70 per cent of the amount by which the total income exceeds Rs 60,000,
(10) where the total income exceeds Rs 80,000 but does not exceed Rs 1,00,000	Rs 37,000 *plus* 75 per cent of the amount by which the total income exceeds Rs 80,000,
(11) where the total income exceeds Rs 1,00,000 but does not exceed Rs 2,00,000	Rs 52,000 *plus* 80 per cent of the amount by which the total income exceeds Rs 1,00,000,
(12) where the total income exceeds Rs 2,00,000	Rs 1,32,000 *plus* 85 per cent of the amount by which the total income exceeds Rs 2,00,000

Provided that for the purposes of this Paragraph, in the case of a Hindu undivided family which at any time during the previous year relevant to the assessment year commencing on the 1st day of April, 1973, satisfies either of the following two conditions, namely —

(*a*) that it has at least two members entitled to claim partition who are not less than eighteen years of age, or

(*b*) that it has at least two members entitled to claim partition who are not lineally descended one from the other and who are not lineally descended from any other living member of the family,—

(*i*) no income-tax shall be payable on a total income not exceeding Rs 7,000,

(*ii*) where the total income exceeds Rs 7,000 but does not exceed Rs. 7,660, the income-tax payable thereon shall not exceed forty per cent. of the amount by which the total income exceeds Rs 7,000

SURCHARGE ON INCOME-TAX

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge for purposes of the Union calculated at the following rates, namely —

(*a*) in a case where the total income does not exceed Rs 15,000	10 per cent ,
(*b*) in any other case	15 per cent .

Provided that the amount of surcharge payable shall, in no case, exceed the aggregate of the following sums, namely —

(*i*) an amount calculated at the rate of 10 per cent on the amount of income-tax on an income of Rs 15,000, if such income had been the total income (the income of Rs 15,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the person concerned), and

(*ii*) 40 per cent of the amount by which the total income exceeds Rs. 15,000

Paragraph B

In the case of every co-operative society,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 10,000	15 per cent of the total income,
(2) where the total income exceeds Rs 10,000 but does not exceed Rs 20,000	Rs 1,500 *plus* 25 per cent of the amount by which the total income exceeds Rs 10,000,
(3) where the total income exceeds Rs 20,000	Rs 4,000 *plus* 40 per cent of the amount by which the total income exceeds Rs 20,000

SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union calculated at the rate of fifteen per cent. of such income-tax

Paragraph C

In the case of every registered firm,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 10,000	Nil,
(2) where the total income exceeds Rs 10,000 but does not exceed Rs 25,000	4 per cent of the amount by which the total income exceeds Rs 10,000,
(3) where the total income exceeds Rs 25,000 but does not exceed Rs 50,000	Rs 600 *plus* 6 per cent of the amount by which the total income exceeds Rs 25,000;

(4) where the total income exceeds Rs 50,000 but does not exceed Rs 1,00,000	Rs 2,100 *plus* 12 per cent of the amount by which the total income exceeds Rs 50,000,
(5) where the total income exceeds Rs 1,00,000	Rs 8,100 *plus* 20 per cent of the amount by which the total income exceeds Rs 1,00,000

SURCHARGES ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by the aggregate of surcharges for purposes of the Union calculated as specified hereunder —

(*a*) in the case of a registered firm whose total income includes income derived from a profession carried on by it and the income so included is not less than fifty-one per cent. of such total income, a surcharge calculated at the rate of ten per cent of the amount of income-tax computed at the rate hereinbefore specified,

(*b*) in the case of any other registered firm, a surcharge calculated at the rate of twenty per cent. of the amount of income-tax computed at the rate hereinbefore specified, and

(*c*) a special surcharge calculated at the rate of fifteen per cent. on the aggregate of the following amounts, namely.—

(*i*) the amount of income-tax computed at the rate hereinbefore specified, and

(*ii*) the amount of the surcharge calculated in accordance with clause (*a*) or, as the case may be, clause (*b*) of this Sub-Paragraph.

Explanation —For the purposes of this Paragraph, "registered firm" includes an unregistered firm assessed as a registered firm under clause (*b*) of section 183 of the Income-tax Act.

Paragraph D

In the case of every local authority,—

RATE OF INCOME-TAX

On the whole of the total income	50 per cent

SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union calculated at the rate of fifteen per cent of such income-tax

Paragraph E

In the case of the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956),—

RATES OF INCOME-TAX

(*i*) on that part of its total income which consists of profits and gains from life insurance business	52 5 per cent ,
(*ii*) on the balance, if any, of the total income	the rate of income-tax applicable, in accordance with Paragraph F of this Part, to the total income of a domestic company which is a company in which the public are substantially interested

SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge calculated at the rate of five per cent of such income-tax.

Paragraph F

In the case of a company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956),—

RATES OF INCOME-TAX

I. In the case of a domestic company—

(1) where the company is a company in which the public are substantially interested,—	
(*i*) in a case where the total income does not exceed Rs 50,000	45 per cent of the total income,
(*ii*) in a case where the total income exceeds Rs 50,000	55 per cent of the total income;
(2) where the company is not a company in which the public are substantially interested,—	
(*i*) in the case of an industrial company—	
(*a*) on so much of the total income as does not exceed Rs 10,00,000	55 per cent,
(*b*) on the balance, if any, of the total income	60 per cent,
(*ii*) in any other case	65 per cent of the total income:

Provided that the income-tax payable by a domestic company, being a company in which the public are substantially interested, the total income of which exceeds Rs 50,000, shall not exceed the aggregate of—

(*a*) the income-tax which would have been payable by the company if its total income had been Rs 50,000 (the income of Rs 50,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the company), and

(*b*) eighty per cent. of the amount by which its total income exceeds Rs. 50,000.

II In the case of a company other than a domestic company—

(*i*) on so much of the total income as consists of—	
(*a*) royalties received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1961, or	
(*b*) fees for rendering technical services received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 29th day of February, 1964,	
and where such agreement has, in either case, been approved by the Central Government	50 per cent,
(*ii*) on the balance, if any, of the total income	70 per cent

SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge calculated at the rate of five per cent of such income-tax

* * *

purposes of this Act and of any other enactment for the time being in force relating to income-tax or super-tax

Rr 2-6B (2) The application shall be made by such person or persons, and at such times and shall contain such particulars and shall be in such form, and be verified in such manner, as may be prescribed, and it shall be dealt with by the Income-tax Officer in such manner as may be prescribed]

27. Cancellation of assessment when cause is shown.—Where an assessee [2]* * within one month from the service of a notice of demand issued as hereinafter provided, satisfies the Income-tax Officer that he was prevented by sufficient cause from making the return required by section 22, or that he did not receive the notice issued under sub-section (4) of section 22, or sub-section (2) of section 23, or that he had not a reasonable opportunity to comply, or was prevented by sufficient cause from complying, with the terms of the last-mentioned notices, the Income-tax Officer shall cancel the assessment and proceed to make a fresh assessment in accordance with the provisions of section 23

[3][**28. Penalty for concealment of income or improper distribution of profits.**—[4][(1) If the Income-tax Officer, the Appellate Assistant Commissioner [5][or the Appellate Tribunal], in the course of any proceedings under this Act, is satisfied that any person—

(*a*) has without reasonable cause failed to furnish the return of his total income which he was required to furnish by notice given under sub-section (1) or sub-section (2) of section 22 or section 34 or has without reasonable cause failed to furnish it within the time allowed and in the manner required by such notice, or

(*b*) has without reasonable cause failed to comply with a notice under sub-section (4) of section 22 or sub-section (2) of section 23, or

(*c*) has concealed the particulars of his income or deliberately furnished inaccurate particulars of such income,

[6][he or it may direct] that such person shall pay by way of penalty, in the case referred to in clause (*a*), in addition to the amount of the income-tax and super-tax, if any, payable by him, a sum not exceeding one and a half times that amount, and in the cases referred to in clauses (*b*) and (*c*), in addition to any tax payable by him, a sum not exceeding one and a half times the amount of the income-tax and super-tax, if any, which would have been avoided if the income as returned by such person had been accepted as the correct income

Provided that—

(*a*) no penalty for failure to furnish the return of his total income shall be imposed on an assessee whose total income is less than three thousand five hundred rupees unless he has been served with a notice under sub-section (2) of section 22,

(*b*) where a person has failed to comply with a notice under sub-section (2) of section 22 or section 34 and proves that he has no income liable to tax, the penalty imposable under this sub-section shall be a penalty not exceeding twenty-five rupees,

[2] "Or in the case of a company, the principal officer thereof" omitted by s 33, Indian I.T. (Amendment) Act, 1939

[3] Substituted by s 6, Indian I T (Amendment) Act, 1930

[4] Substituted by s 34, Indian I T (Amendment) Act, 1939

[5] Substituted for "or the Commissioner" by s 86, *ibid*

[6] Substituted for "he may direct", *ibid*

Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or deducted under sub-section (9) of section 80E of the said Act from any payment referred to in the said sub-section (9) or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be so calculated, charged, deducted or computed at the rate or rates specified in Part III of the First Schedule

Provided that in respect of any income chargeable to tax under section 164 of the Income-tax Act at the rate of sixty-five per cent, "advance tax" shall be computed at that rate

(6) In the cases to which Sub-Paragraph I or Sub-Paragraph II of Paragraph A of Part III of the First Schedule applies, where the assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any net agricultural income, in addition to total income, and the total income exceeds five thousand rupees, then, in calculating income-tax under the first proviso to sub-section (5) of section 132 of the Income-tax Act or in charging income-tax under sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or in computing the "advance tax" payable under Chapter XVII-C of the said Act, at the rate or rates in force,—

(*a*) the net agricultural income shall be taken into account, in the manner provided in clause (*b*) (that is to say, as if the net agricultural income were comprised in the total income after the first five thousand rupees of the total income but without being liable to tax), only for the purpose of calculating, charging or computing such income-tax or, as the case may be, "advance tax" in respect of the total income, and

(*b*) such income-tax or, as the case may be, "advance tax" shall be so calculated, charged or computed as follows —

(*i*) the total income and the net agricultural income shall be aggregated and the amount of income-tax or "advance tax" shall be determined in respect of the aggregate income at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if such aggregate income were the total income,

(*ii*) the net agricultural income shall be increased by a sum of five thousand rupees and the amount of income-tax or "advance tax" shall be determined in respect of the net agricultural income as so increased at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if the net agricultural income as so increased were the total income,

(*iii*) the amount by which income-tax or, as the case may be, "advance tax" determined in accordance with sub-clause (*i*) exceeds the amount of income-tax or "advance tax" determined in accordance with sub-clause (*ii*) shall be the income-tax or "advance tax" in respect of the total income

Provided that in cases where Sub-Paragraph I of the said Paragraph A applies,—

(*A*) where the aggregate income referred to in sub-clause (*i*) exceeds fifteen thousand rupees but does not exceed fifteen thousand one

THE FINANCE ACT, 1973

(ACT NO XXI OF 1973)

(Received the assent of the President on 11th May 1973)

CHAPTER I

PRELIMINARY

1. Short title and commencement.—(1) This Act may be called the Finance Act, 1973

(2) Save as otherwise provided in this Act, sections 2 to 23 shall be deemed to have come into force on the 1st day of April, 1973

CHAPTER II

RATES OF INCOME-TAX

2. Income-tax.—(1) Subject to the provisions of sub-sections (2) and (3), for the assessment year commencing on the 1st day of April, 1973, income-tax shall be charged at the rates specified in Part I of the First Schedule and shall be increased,—

(*a*) in the cases to which Paragraphs A, B and D of that Part apply, by a surcharge for purposes of the Union,

(*b*) in the cases to which Paragraph C of that Part applies, by a surcharge for purposes of the Union and a special surcharge for purposes of the Union, and

(*c*) in the cases to which Paragraphs E and F of that Part apply, by a surcharge,

calculated in each case in the manner provided therein.

(2) In making any assessment for the assessment year commencing on the 1st day of April, 1973, where the total income of a company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956), includes any profits and gains from life insurance business, the income-tax payable by it shall be the aggregate of the income-tax calculated—

(*i*) on the amount of profits and gains from life insurance business so included, at the rate applicable in the case of the Life Insurance Corporation of India, in accordance with Paragraph E of Part I of the First Schedule, to that part of its total income which consists of profits and gains from life insurance business, and

(*ii*) on the remaining part of its total income, at the rate applicable to the company on its total income

(3) In cases to which Chapter XII or section 164 of the Income-tax Act, 1961 (XLIII of 1961), (hereinafter referred to as the Income-tax Act) applies, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter or section, as the case may be

(4) In cases in which tax has to be deducted under sections 193, 194, 194A, 194B, 194D and 195 of the Income-tax Act at the rates in force, the deduction shall be made at the rates specified in Part II of the First Schedule.

(5) Subject to the provisions of sub-section (6), in cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the

Government issued income-tax free, the income-tax whereon is payable by the State Government,

(g) all other words and expressions used in this section and the First Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings, respectively, assigned to them in that Act.

CHAPTER III

DIRECT TAXES

* * *

Miscellaneous

23. Credit Guarantee Corporation of India Limited to be exempt for a certain period from liability to pay income-tax and surtax.—Notwithstanding anything contained in the Income-tax Act or the Companies (Profits) Surtax Act, 1964 (VII of 1964), the Credit Guarantee Corporation of India Limited (a company formed and registered under the Companies Act, 1956 (I of 1956)) shall not be liable to pay any tax, under either of the two Acts first-mentioned, on its income, profits or gains for the previous year relevant to the assessment year commencing on the 1st day of April, 1972, and for the four previous years next following that previous year.

* * *

THE FIRST SCHEDULE

[See section 2]

PART I

Income-tax and surcharges on income-tax

Paragraph A

In the case of every individual or Hindu undivided family or unregistered firm or other association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 5,000	Nil,
(2) where the total income exceeds Rs 5,000 but does not exceed Rs 10,000	10 per cent. of the amount by which the total income exceeds Rs. 5,000,
(3) where the total income exceeds Rs 10,000 but does not exceed Rs 15,000	Rs 500 *plus* 17 per cent of the amount by which the total income exceeds Rs 10,000,
(4) where the total income exceeds Rs 15,000 but does not exceed Rs 20,000	Rs 1,350 *plus* 23 per cent of the amount by which the total income exceeds Rs 15,000,
(5) where the total income exceeds Rs 20,000 but does not exceed Rs. 25,000	Rs 2,500 *plus* 30 per cent of the amount by which the total income exceeds Rs 20,000,
(6) where the total income exceeds Rs 25,000 but does not exceed Rs 30,000	Rs 4,000 *plus* 40 per cent of the amount by which the total income exceeds Rs 25,000,

hundred and eighty rupees, the provisions of that Sub-Paragraph relating to surcharge on income-tax shall, for the purposes of determining the amount of income-tax or "advance tax" under sub-clause (*ii*), apply subject to the modifications that such surcharge shall be calculated at the rate arrived at by dividing the amount of surcharge on income-tax calculated in respect of the aggregate income by the amount of income-tax (excluding surcharge) calculated in respect of the aggregate income and that the provisions of the proviso at the end of that Sub-Paragraph shall not apply,

(*B*) where the aggregate income referred to in sub-clause (*i*) exceeds fifteen thousand one hundred and eighty rupees, the provisions of that Sub-Paragraph relating to surcharge on income-tax shall, for the purposes of determining the amount of income-tax or "advance tax" under sub-clause (*ii*), apply subject to the modifications that such surcharge shall be calculated at the rate of fifteen per cent and that the provisions of the proviso at the end of that Sub-Paragraph shall not apply

(7) For the purposes of this section and the First Schedule,—

(*a*) "company in which the public are substantially interested" means a company which is such a company as is referred to in section 108 of the Income-tax Act,

(*b*) "domestic company" means an Indian company, or any other company which, in respect of its income liable to income-tax under the Income-tax Act for the assessment year commencing on the 1st day of April, 1973, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income in accordance with the provisions of section 194 of that Act,

(*c*) "industrial company" means a company which is mainly engaged in the business of generation or distribution of electricity or any other form of power or in the construction of ships or in the manufacture or processing of goods or in mining,

Explanation —For the purposes of this clause, a company shall be deemed to be mainly engaged in the business of generation or distribution of electricity or any other form of power or in the construction of ships or in the manufacture or processing of goods or in mining, if the income attributable to any one or more of the aforesaid activities included in its total income of the previous year (as computed before making any deduction under Chapter VI-A of the Income-tax Act) is not less than fifty-one per cent of such total income,

(*d*) "insurance commission" means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance),

(*e*) "net agricultural income", in relation to a person, means the total amount of agricultural income, from whatever source derived, of that person computed in accordance with the rules contained in Part IV of the First Schedule,

(*f*) "tax-free security" means any security of the Central Government issued or declared to be income-tax free, or any security of a State

(2) where the total income exceeds Rs 10,000 but does not exceed Rs 20,000	Rs 1,500 *plus* 25 per cent of the amount by which the total income exceeds Rs 10,000,
(3) where the total income exceeds Rs 20,000	Rs 4,000 *plus* 40 per cent of the amount by which the total income exceeds Rs 20,000

SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union calculated at the rate of fifteen per cent of such income-tax

Paragraph C

In the case of every registered firm,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 10,000	Nil,
(2) where the total income exceeds Rs 10,000 but does not exceed Rs 25,000	4 per cent of the amount by which the total income exceeds Rs 10,000,
(3) where the total income exceeds Rs 25,000 but does not exceed Rs 50,000	Rs 600 *plus* 6 per cent of the amount by which the total income exceeds Rs 25,000,
(4) where the total income exceeds Rs 50,000 but does not exceed Rs 1,00,000	Rs 2,100 *plus* 12 per cent of the amount by which the total income exceeds Rs 50,000,
(5) where the total income exceeds Rs 1,00,000	Rs 8,100 *plus* 20 per cent of the amount by which the total income exceeds Rs 1,00,000

SURCHARGES ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by the aggregate of surcharges for purposes of the Union calculated as specified hereunder —

(*a*) in the case of a registered firm whose total income includes income derived from a profession carried on by it and the income so included is not less than fifty-one per cent of such total income, a surcharge calculated at the rate of ten per cent of the amount of income-tax computed at the rate hereinbefore specified,

(*b*) in the case of any other registered firm, a surcharge calculated at the rate of twenty per cent of the amount of income-tax computed at the rate hereinbefore specified, and

(*c*) a special surcharge calculated at the rate of fifteen per cent on the aggregate of the following amounts, namely.—

(*i*) the amount of income-tax computed at the rate hereinbefore specified, and

(*ii*) the amount of the surcharge calculated in accordance with clause (*a*) or, as the case may be, clause (*b*)

Explanation.—For the purposes of this Paragraph, "registered firm" includes an unregistered firm assessed as a registered firm under clause (*b*) of section 183 of the Income-tax Act

(7) where the total income exceeds Rs 30,000 but does not exceed Rs 40,000	Rs 6,000 *plus* 50 per cent of the amount by which the total income exceeds Rs 30,000,
(8) where the total income exceeds Rs 40,000 but does not exceed Rs 60,000	Rs 11,000 *plus* 60 per cent of the amount by which the total income exceeds Rs 40,000,
(9) where the total income exceeds Rs 60,000 but does not exceed Rs 80,000	Rs 23,000 *plus* 70 per cent of the amount by which the total income exceeds Rs 60,000,
(10) where the total income exceeds Rs 80,000 but does not exceed Rs 1,00,000	Rs 37,000 *plus* 75 per cent of the amount by which the total income exceeds Rs 80,000,
(11) where the total income exceeds Rs 1,00,000 but does not exceed Rs 2,00,000	Rs 52,000 *plus* 80 per cent of the amount by which the total income exceeds Rs 1,00,000,
(12) where the total income exceeds Rs 2,00,000	Rs 1,32,000 *plus* 85 per cent of the amount by which the total income exceeds Rs 2,00,000

Provided that for the purposes of this Paragraph, in the case of a Hindu undivided family which at any time during the previous year satisfies either of the following two conditions, namely —

(*a*) that it has at least two members entitled to claim partition who are not less than eighteen years of age, or

(*b*) that it has at least two members entitled to claim partition who are not lineally descended one from the other and who are not lineally descended from any other living member of the family,—

(*i*) no income-tax shall be payable on a total income not exceeding Rs 7,000,

(*ii*) where the total income exceeds Rs 7,000 but does not exceed Rs 7,660, the income-tax payable thereon shall not exceed forty per cent. of the amount by which the total income exceeds Rs. 7,000

SURCHARGE ON INCOME-TAX

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge for purposes of the Union calculated at the following rates, namely —

(*a*) in a case where the total income does not exceed Rs 15,000	10 per cent ,
(*b*) in any other case	15 per cent..

Provided that the amount of surcharge payable shall, in no case, exceed the aggregate of the following sums, namely —

(*i*) an amount calculated at the rate of 10 per cent on the amount of income-tax on an income of Rs 15,000, if such income had been the total income (the income of Rs 15,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the person concerned), and

(*ii*) 40 per cent. of the amount by which the total income exceeds Rs. 15,000

Paragraph B

In the case of every co-operative society,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 10,000	15 per cent of the total income,

Provided that the income-tax payable by a domestic company, being a company in which the public are substantially interested, the total income of which exceeds Rs 50,000, shall not exceed the aggregate of—

(a) the income-tax which would have been payable by the company if its total income had been Rs 50,000 (the income of Rs 50,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the company), and

(b) eighty per cent of the amount by which its total income exceeds Rs 50,000.

II In the case of a company other than a domestic company—

(i) on so much of the total income as consists of—	
(a) royalties received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1961, or	
(b) fees for rendering technical services received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 29th day of February, 1964,	
and where such agreement has, in either case, been approved by the Central Government	50 per cent ,
(ii) on the balance, if any, of the total income	70 per cent

SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge calculated at the rate of five per cent of such income-tax

PART II

Rates for deduction of tax at source in certain cases

In every case in which under the provisions of sections 193, 194, 194A, 194B, 194D and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to deduction, at the following rates —

	Income-tax	
	Rate of income-tax	Rate of surcharge
1 In the case of a person other than a company—		
(a) where the person is resident—		
(i) on income by way of interest other than "Interest on securities"	10 per cent	Nil,
(ii) on income by way of winnings from lotteries and crossword puzzles	30 per cent	4 5 per cent ,
(iii) on income by way of insurance commission	10 per cent	Nil,
(iv) on any other income (excluding interest payable on a tax-free security)	20 per cent	3 per cent ,

Paragraph D

In the case of every local authority,—

RATE OF INCOME-TAX

On the whole of the total income	50 per cent

SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union calculated at the rate of fifteen per cent of such income-tax

Paragraph E

In the case of the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956),—

RATES OF INCOME-TAX

(*i*) on that part of its total income which consists of profits and gains from life insurance business	52 5 per cent ,
(*ii*) on the balance, if any, of the total income	the rate of income-tax applicable, in accordance with Paragraph F of this Part, to the total income of a domestic company which is a company in which the public are substantially interested

SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge calculated at the rate of five per cent of such income-tax.

Paragraph F

In the case of a company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956),—

RATES OF INCOME-TAX

I. In the case of a domestic company—

(1) where the company is a company in which the public are substantially interested,—	
(*i*) in a case where the total income does not exceed Rs 50,000	45 per cent of the total income,
(*ii*) in a case where the total income exceeds Rs 50,000	55 per cent of the total income,
(2) where the company is not a company in which the public are substantially interested,—	
(*i*) in the case of an industrial company—	
(*a*) on so much of the total income as does not exceed Rs 10,00,000	55 per cent ,
(*b*) on the balance, if any, of the total income	60 per cent ,
(*ii*) in any other case	65 per cent of the total income

"advance tax" payable under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force, such income-tax or, as the case may be, "advance tax" (not being "advance tax" in respect of any income chargeable to tax under section 164 of the Income-tax Act at the rate of sixty-five per cent) shall be so calculated, charged, deducted or computed at the following rate or rates —

Paragraph A

Sub-Paragraph I

In the case of every individual or Hindu undivided family or unregistered firm or other association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, not being a case to which Sub-Paragraph II of this Paragraph or any other Paragraph of this Part applies,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 5,000	Nil
(2) where the total income exceeds Rs 5,000 but does not exceed Rs 10,000	10 per cent of the amount by which the total income exceeds Rs 5,000,
(3) where the total income exceeds Rs 10,000 but does not exceed Rs 15,000	Rs 500 *plus* 17 per cent of the amount by which the total income exceeds Rs 10,000,
(4) where the total income exceeds Rs 15,000 but does not exceed Rs 20,000	Rs 1,350 *plus* 23 per cent of the amount by which the total income exceeds Rs 15,000,
(5) where the total income exceeds Rs 20,000 but does not exceed Rs 25,000	Rs 2,500 *plus* 30 per cent of the amount by which the total income exceeds Rs 20,000,
(6) where the total income exceeds Rs 25,000 but does not exceed Rs 30,000	Rs 4,000 *plus* 40 per cent of the amount by which the total income exceeds Rs 25,000,
(7) where the total income exceeds Rs 30,000 but does not exceed Rs 40,000	Rs 6,000 *plus* 50 per cent of the amount by which the total income exceeds Rs 30,000,
(8) where the total income exceeds Rs 40,000 but does not exceed Rs 60,000	Rs 11,000 *plus* 60 per cent of the amount by which the total income exceeds Rs 40,000,
(9) where the total income exceeds Rs 60,000 but does not exceed Rs 80,000	Rs 23,000 *plus* 70 per cent of the amount by which the total income exceeds Rs 60,000,
(10) where the total income exceeds Rs 80,000 but does not exceed Rs 1,00,000	Rs 37,000 *plus* 75 per cent of the amount by which the total income exceeds Rs 80,000,
(11) where the total income exceeds Rs 1,00,000 but does not exceed Rs 2,00,000	Rs 52,000 *plus* 80 per cent of the amount by which the total income exceeds Rs 1,00,000,
(12) where the total income exceeds Rs 2,00,000	Rs 1,32,000 *plus* 85 per cent of the amount by which the total income exceeds Rs 2,00,000

SURCHARGE ON INCOME-TAX

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the following rates, namely —

(*a*) in a case where the total income does not exceed Rs 15,000	10 per cent,
(*b*) in any other case	15 per cent

	Income-tax	
	Rate of income-tax	Rate of surcharge
(*b*) where the person is not resident in India—		
(*i*) on the whole income (excluding interest payable on a tax-free security)	income-tax at 30 per cent and surcharge at 4 5 per cent of the amount of the income *or* income-tax and surcharge on income-tax in respect of the income at the rates prescribed in Sub-Paragraph I of Paragraph A of Part III of this Schedule, if such income had been the total income, whichever is higher,	
(*ii*) on income by way of interest payable on a tax-free security	15 per cent	2 25 per cent
2 In the case of a company—		
(*a*) where the company is a domestic company—		
(*i*) on income by way of interest other than "Interest on securities"	20 per cent	1 per cent ,
(*ii*) on any other income (excluding interest payable on a tax-free security) .	22 per cent	1 per cent ;
(*b*) where the company is not a domestic company—		
(*i*) on income by way of dividends payable by any domestic company	24 5 per cent.	1 225 per cent ,
(*ii*) on income by way of royalties payable by an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1961, and which has been approved by the Central Government	50 per cent	2 5 per cent ,
(*iii*) on income by way of fees payable by an Indian concern for rendering technical services in pursuance of an agreement made by it with the Indian concern after the 29th day of February, 1964, and which has been approved by the Central Government	50 per cent	2 5 per cent ,
(*iv*) on income by way of interest payable on a tax-free security	44 per cent	2 2 per cent ,
(*v*) on any other income	70 per cent	3 5 per cent

PART III

Rates for calculating or charging income-tax in certain cases, deducting income-tax from income chargeable under the head "Salaries" or any payment referred to in sub-section (9) of section 80E and computing "advance tax"

In cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or deducted under sub-section (9) of section 80E of the said Act from any payment referred to in the said sub-section (9) or in which the

(*c*) no penalty shall be imposed under this sub-section upon any person assessable under section 42 as the agent of a person not resident in [7][the taxable territories] for failure to furnish the return required under section 22 unless a notice under sub-section (2) of that section or under section 34 has been served on him,

[8][(*d*) [9][when the person liable to penalty is a registered firm or an unregistered firm which has been assessed under clause (*b*) of sub-section (5) of section 23, then, notwithstanding anything contained in the other provisions of this Act, the amount of income-tax and super-tax payable by the firm itself shall be taken to be] an amount equal to the tax which would have been payable by an unregistered firm on an income equal to the firm's total income, and, in the cases referred to in clauses (*b*) and (*c*), the amount of the income-tax and super-tax which would have been avoided if the income as returned had been accepted as the correct income, shall be taken to be the difference between the amount of the tax which would have been payable by an unregistered firm on an income equal to the firm's total income and the amount of the tax payable by an unregistered firm on an income equal to the income of the firm as actually returned by the firm]]

(2) If the Income-tax Officer, the [10][Appellate Assistant Commissioner] [11][or the Appellate Tribunal], in the course of any proceedings under this Act, is satisfied that the profits of a registered firm have been distributed otherwise than in accordance with the shares of the partners as shown in the instrument of partnership registered under this Act governing such distribution, and that any partner has thereby returned his income below its real amount, [12][he or it may direct] that such partner shall [13][in addition to the income-tax and super-tax, if any, payable by him] pay by way of penalty a sum [14][not exceeding one and a half times the amount of income-tax and super-tax] which has been avoided, or would have been avoided if the income returned by such partner had been accepted as his correct income, and no refund or other adjustment shall be claimable by any other partner by reason of such direction

(3) No order shall be made under sub-section (1) or sub-section (2) unless the assessee or partner, as the case may be, has been heard, or has been given a reasonable opportunity of being heard

(4) No prosecution for an offence against this Act shall be instituted in respect of the same facts on which a penalty has been imposed under this section.

(5) An [15][Appellate Assistant Commissioner] [16][or the Appellate Tribunal on making] an order under sub-section (1) or sub-section (2), shall forthwith send a copy of the same to the Income-tax Officer

[17][(6) The Income-tax Officer shall not impose any penalty under this section without the previous approval of the Inspecting Assistant Commissioner]]

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[7] Substituted for "British India" by Adaptation of Laws Order, 1950
[8] Inserted by s 8, Indian I T (Amendment) Act, 1940
[9] Substituted for "when the person liable to penalty is a registered firm, or an unregistered firm treated under section 23(5)(*b*) as a registered firm, so that the amount of the income-tax and super-tax payable by the firm itself has not been determined, that amount shall be taken to be" by s 17, F Act, 1956, w e f 1-4-1956
[10] Substituted for "Assistant Commissioner" by s 34, Indian I T (Amendment) Act, 1939
[11] Substituted for "or the Commissioner" by s 86, *ibid*
[12] Substituted for "he may direct", *ibid*
[13] Substituted for "in addition to the income-tax payable by him" by s 34, *ibid*
[14] Substituted for "not exceeding the amount of income-tax", *ibid*
[15] Substituted for "Assistant Commissioner", *ibid*
[16] Substituted for "or a Commissioner, who has made" by s 86, *ibid*
[17] Inserted by s 34, *ibid*

Provided that the amount of surcharge payable shall, in no case, exceed the aggregate of the following sums, namely —

(i) an amount calculated at the rate of 10 per cent on the amount of income-tax on an income of Rs 15,000, if such income had been the total income (the income of Rs 15,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the person concerned), and

(ii) 40 per cent of the amount by which the total income exceeds Rs 15,000

Sub-Paragraph II

In the case of every Hindu undivided family which has at least one member whose total income of the previous year relevant to the assessment year commencing on the 1st day of April, 1974, exceeds Rs 5,000,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 5,000	Nil,
(2) where the total income exceeds Rs 5,000 but does not exceed Rs 10,000	17 per cent of the amount by which the total income exceeds Rs 5,000,
(3) where the total income exceeds Rs 10,000 but does not exceed Rs 15,000	Rs 850 *plus* 23 per cent of the amount by which the total income exceeds Rs 10,000,
(4) where the total income exceeds Rs 15,000 but does not exceed Rs 20,000	Rs 2,000 *plus* 30 per cent of the amount by which the total income exceeds Rs 15,000,
(5) where the total income exceeds Rs 20,000 but does not exceed Rs 25,000	Rs 3,500 *plus* 40 per cent of the amount by which the total income exceeds Rs 20,000,
(6) where the total income exceeds Rs 25,000 but does not exceed Rs 30,000	Rs 5,500 *plus* 50 per cent of the amount by which the total income exceeds Rs 25,000,
(7) where the total income exceeds Rs 30,000 but does not exceed Rs 40,000	Rs 8,000 *plus* 60 per cent of the amount by which the total income exceeds Rs 30,000,
(8) where the total income exceeds Rs 40,000 but does not exceed Rs 60,000	Rs 14,000 *plus* 70 per cent of the amount by which the total income exceeds Rs 40,000,
(9) where the total income exceeds Rs 60,000 but does not exceed Rs 80,000	Rs 28,000 *plus* 75 per cent of the amount by which the total income exceeds Rs 60,000,
(10) where the total income exceeds Rs 80,000 but does not exceed Rs 1,00,000	Rs 43,000 *plus* 80 per cent of the amount by which the total income exceeds Rs 80,000,
(11) where the total income exceeds Rs 1,00,000	Rs 59,000 *plus* 85 per cent of the amount by which the total income exceeds Rs 1,00,000

SURCHARGE ON INCOME-TAX

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of fifteen per cent of such income-tax

Paragraph B

In the case of every co-operative society,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 10,000	15 per cent of the total income,

(2) where the total income exceeds Rs 10,000 but does not exceed Rs 20,000	Rs 1,500 *plus* 25 per cent of the amount by which the total income exceeds Rs 10,000,
(3) where the total income exceeds Rs 20,000	Rs 4,000 *plus* 40 per cent of the amount by which the total income exceeds Rs 20,000

SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union calculated at the rate of fifteen per cent of such income-tax

Paragraph C

In the case of every registered firm,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 10,000	Nil,
(2) where the total income exceeds Rs 10,000 but does not exceed Rs 25,000	4 per cent of the amount by which the total income exceeds Rs 10,000,
(3) where the total income exceeds Rs 25,000 but does not exceed Rs 50,000	Rs 600 *plus* 6 per cent of the amount by which the total income exceeds Rs 25,000,
(4) where the total income exceeds Rs 50,000 but does not exceed Rs 1,00,000	Rs 2,100 *plus* 12 per cent of the amount by which the total income exceeds Rs 50,000,
(5) where the total income exceeds Rs 1,00,000	Rs 8,100 *plus* 20 per cent of the amount by which the total income exceeds Rs 1,00,000

SURCHARGES ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by the aggregate of surcharges for purposes of the Union calculated as specified hereunder —

(*a*) in the case of a registered firm whose total income includes income derived from a profession carried on by it and the income so included is not less than fifty-one per cent of such total income, a surcharge calculated at the rate of ten per cent of the amount of income-tax computed at the rate hereinbefore specified,

(*b*) in the case of any other registered firm, a surcharge calculated at the rate of twenty per cent of the amount of income-tax computed at the rate hereinbefore specified, and

(*c*) a special surcharge calculated at the rate of fifteen per cent. on the aggregate of the following amounts, namely —

(*i*) the amount of income-tax computed at the rate hereinbefore specified, and

(*ii*) the amount of the surcharge calculated in accordance with clause (*a*) or, as the case may be, clause (*b*).

Explanation —For the purposes of this Paragraph, "registered firm" includes an unregistered firm assessed as a registered firm under clause (*b*) of section 183 of the Income-tax Act

Paragraph D

In the case of every local authority,—

RATE OF INCOME-TAX

On the whole of the total income	50 per cent

SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union calculated at the rate of fifteen per cent of such income-tax

Paragraph E

In the case of the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956),—

RATES OF INCOME-TAX

(*i*) on that part of its total income which consists of profits and gains from life insurance business	52 5 per cent ,
(*ii*) on the balance, if any, of the total income	the rate of income-tax applicable in accordance with Paragraph F of this Part, to the total income of a domestic company which is a company in which the public are substantially interested

SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge calculated at the rate of five per cent of such income-tax

Paragraph F

In the case of a company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956),—

RATES OF INCOME-TAX

I In the case of a domestic company—

(1) where the company is a company in which the public are substantially interested,—	
(*i*) in a case where the total income does not exceed Rs 1,00,000	45 per cent of the total income,
(*ii*) in a case where the total income exceeds Rs 1,00,000	55 per cent of the total income,
(2) where the company is not a company in which the public are substantially interested,—	
(*i*) in the case of an industrial company—	
(*a*) on so much of the total income as does not exceed Rs 2,00,000	55 per cent ,
(*b*) on the balance, if any, of the total income	60 per cent ,
(*ii*) in any other case	65 per cent of the total income

Provided that the income-tax payable by a domestic company, being a company in which the public are substantially interested, the total income of which exceeds Rs 1,00,000, shall not exceed the aggregate of—

(*a*) the income-tax which would have been payable by the company if its total income had been Rs 1,00,000 (the income of Rs 1,00,000 for this

purpose being computed as if such income included income from various sources in the same proportion as the total income of the company), and

(*b*) eighty per cent of the amount by which its total income exceeds Rs 1,00,000

II In the case of a company other than a domestic company—

(*i*) on so much of the total income as consists of— (*a*) royalties received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1961, or (*b*) fees for rendering technical services received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 29th day of February, 1964, and where such agreement has, in either case, been approved by the Central Government	50 per cent ,
(*ii*) on the balance, if any, of the total income	70 per cent

SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge calculated at the rate of five per cent of such income-tax

PART IV

[See section 2(7)(*e*)]

Rules for computation of net agricultural income

Rule 1—Agricultural income of the nature referred to in sub-clause (*a*) of clause (*1*) of section 2 of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from other sources" and the provisions of sections 57 to 59 of that Act shall, so far as may be, apply accordingly

Provided that sub-section (2) of section 58 shall apply subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-sections (3) and (4) of section 40A

Rule 2—Agricultural income of the nature referred to in sub-clause (*b*) or sub-clause (*c*) of clause (*1*) of section 2 of the Income-tax Act [other than income derived from any building required as a dwelling house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (*c*)] shall be computed as if it were income chargeable to income-tax under that Act under the head "Profits and gains of business or profession" and the provisions of sections 30, 31, 32, 34, 36,37, 38, 40, 40A [other than sub-sections (3) and (4) thereof], 41, 43 and 43A of the Income-tax Act shall, so far as may be, apply accordingly

Rule 3—Agricultural income of the nature referred to in sub-clause (*c*) of clause (*1*) of section 2 of the Income-tax Act, being income derived from any building required as a dwelling house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (*c*), shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from house property" and the provisions of sections 23 to 27 of that Act shall, so far as may be, apply accordingly

Provided that sub-section (2) of the said section 23 shall apply subject to the modifications that the references to "total income" therein shall be construed as

references to net agricultural income and that the words, figures and letter "and before making any deduction under Chapter VI-A" shall be omitted

Rule 4—Notwithstanding anything contained in any other provisions of these rules, in a case where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962, and sixty per cent of such income shall be regarded as the agricultural income of the assessee

Rule 5—Where the assessee is a partner of a registered firm or an unregistered firm assessed as a registered firm under clause (*b*) of section 183 of the Income-tax Act, which in the previous year has any agricultural income, or is a partner of an unregistered firm which has not been assessed as a registered firm under clause (*b*) of the said section 183 and which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding five thousand rupees but has any agricultural income, then, the agricultural income or loss of the firm shall be computed in accordance with these rules and his share in the agricultural income or loss of the firm shall be computed in the manner laid down in sub-section (1), sub-section (2) and sub-section (3) of section 67 of the Income-tax Act and the share so computed shall be regarded as the agricultural income or loss of the assessee

Rule 6—Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding five thousand rupees but has any agricultural income, then, the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee

Rule 7—Where the result of the computation for any assessment year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee, if any, for that assessment year from any other source of agricultural income

Provided that where the assessee is a partner of an unregistered firm which has not been assessed as a registered firm under clause (*b*) of section 183 of the Income-tax Act or is a member of an association of persons or body of individuals and the share of the assessee in the agricultural income of the firm, association or body, as the ease may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income

Rule 8—Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income

Rule 9—Where the net result of the computation made in accordance with these rules is a loss, the loss so computed shall be ignored and the net agricultural income shall be deemed to be nil

Rule 10—The provisions of the Income-tax Act relating to procedure for assessment (including the provisions of section 288A relating to rounding off of income) shall, with the necessary modifications, apply in relation to the computation of the net agricultural income of the assessee as they apply in relation to the assessment of the total income

Rule 11—For the purposes of computing the net agricultural income of the assessee, the Income-tax Officer shall have the same powers as he has under the Income-tax Act for the purposes of assessment of the total income

* * *

THE FINANCE ACT, 1974

(ACT NO XX OF 1974)

(*Received the assent of the President on 11th May 1974*)

CHAPTER I

PRELIMINARY

1. Short title and commencement —(1) This Act may be called the Finance Act, 1974

(2) Save as otherwise provided in this Act, sections 2 to 17 shall be deemed to have come into force on the 1st day of April, 1974

CHAPTER II

RATES OF INCOME-TAX

2. Income-tax.—(1) Subject to the provisions of sub-sections (2), (3) and (4), for the assessment year commencing on the 1st day of April, 1974, income-tax shall be charged at the rates specified in Part I of the First Schedule and shall be increased,—

(*a*) in the cases to which Paragraphs A, B and D of that Part apply, by a surcharge for purposes of the Union,

(*b*) in the cases to which Paragraph C of that Part applies, by a surcharge for purposes of the Union and a special surcharge for purposes of the Union, and

(*c*) in the cases to which Paragraphs E and F of that Part apply, by a surcharge,

calculated in each case in the manner provided therein

(2) In the cases to which Sub-Paragraph I or Sub-Paragraph II of Paragraph A of Part I of the First Schedule applies, where the assessee has, in the previous year, any net agricultural income, in addition to total income, and the total income exceeds five thousand rupees, then,—

(*a*) the net agricultural income shall be taken into account, in the manner provided in clause (*b*) (that is to say, as if the net agricultural income were comprised in the total income after the first five thousand rupees of the total income but without being liable to tax), only for the purpose of charging income-tax in respect of the total income, and

(*b*) the income-tax chargeable shall be calculated as follows —

(*i*) the total income and the net agricultural income shall be aggregated and the amount of income-tax shall be determined in respect of the aggregate income at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A as if such aggregate income were the total income,

(*ii*) the net agricultural income shall be increased by a sum of five thousand rupees and the amount of income-tax shall be determined in respect of the net agricultural income as so increased at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if the net agricultural income as so increased were the total income,

(*iii*) the amount by which income-tax determined in accordance with sub-clause (*i*) exceeds the amount of income-tax determined in

accordance with sub-clause (*ii*) shall be the income-tax chargeable in respect of the total income

Provided that in cases where Sub-Paragraph I of the said Paragraph A applies,—

(*A*) where the aggregate income referred to in sub-clause (*i*) exceeds fifteen thousand rupees but does not exceed fifteen thousand one hundred and eighty rupees, the provisions of that Sub-Paragraph relating to surcharge on income-tax shall, for the purposes of determining the amount of income-tax under sub-clause (*ii*), apply subject to the modifications that such surcharge shall be calculated at the rate arrived at by dividing the amount of surcharge on income-tax calculated in respect of the aggregate income by the amount of income-tax (excluding surcharge) calculated in respect of the aggregate income and that the provisions of the proviso at the end of that Sub-Paragraph shall not apply,

(*B*) where the aggregate income referred to in sub-clause (*i*) exceeds fifteen thousand one hundred and eighty rupees, the provisions of that Sub-Paragraph relating to surcharge on income-tax shall, for the purposes of determining the amount of income-tax under sub-clause (*ii*), apply subject to the modifications that such surcharge shall be calculated at the rate of fifteen per cent and that the provisions of the proviso at the end of that Sub-Paragraph shall not apply

(3) Where in the case of a company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956), the total income includes any profits and gains from life insurance business, the income-tax payable by it shall be the aggregate of the income-tax calculated—

(*i*) on the amount of profits and gains from life insurance business so included, at the rate applicable in the case of the Life Insurance Corporation of India, in accordance with Paragraph E of Part I of the First Schedule, to that part of its total income which consists of profits and gains from life insurance business, and

(*ii*) on the remaining part of its total income, at the rate applicable to the company on its total income

(4) In cases to which Chapter XII or section 164 of the Income-tax Act, 1961 (XLIII of 1961), (hereinafter referred to as the Income-tax Act) applies, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter or section, as the case may be

(5) In cases in which tax has to be deducted under sections 193, 194, 194A, 194B, 194D and 195 of the Income-tax Act at the rates in force, the deduction shall be made at the rates specified in Part II of the First Schedule

(6) Subject to the provisions of sub-section (7), in cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or deducted under sub-section (9) of section 80E of the said Act from any payment referred to in the said sub-section (9) or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be so calculated,

charged, deducted or computed at the rate or rates specified in Part III of the First Schedule

Provided that in respect of any income chargeable to tax under section 164 of the Income-tax Act at the rate of sixty-five per cent, "advance tax" shall be computed at that rate

(7) In the cases to which Sub-Paragraph I or Sub-Paragraph II of Paragraph A of Part III of the First Schedule applies, where the assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any net agricultural income, in addition to total income, and the total income exceeds six thousand rupees, then, in calculating income-tax under the first proviso to sub-section (5) of section 132 of the Income-tax Act or in charging income-tax under sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or in computing the "advance tax" payable under Chapter XVII-C of the said Act, at the rate or rates in force,—

(*a*) the net agricultural income shall be taken into account, in the manner provided in clause (*b*) (that is to say, as if the net agricultural income were comprised in the total income after the first six thousand rupees of the total income but without being liable to tax), only for the purpose of calculating, charging or computing such income-tax or, as the case may be, "advance tax" in respect of the total income, and

(*b*) such income-tax or, as the case may be, "advance tax" shall be so calculated, charged or computed as follows —

(*i*) the total income and the net agricultural income shall be aggregated and the amount of income-tax or "advance tax" shall be determined in respect of the aggregate income at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if such aggregate income were the total income,

(*ii*) the net agricultural income shall be increased by a sum of six thousand rupees and the amount of income-tax or "advance tax" shall be determined in respect of the net agricultural income as so increased at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if the net agricultural income as so increased were the total income,

(*iii*) the amount by which income-tax or, as the case may be, "advance tax" determined in accordance with sub-clause (*i*) exceeds the amount of income-tax or "advance tax" determined in accordance with sub-clause (*ii*) shall be the income-tax or "advance tax" in respect of the total income

(8) For the purposes of this section and the First Schedule,—

(*a*) "company in which the public are substantially interested" means a company which is such a company as is referred to in section 108 of the Income-tax Act,

(*b*) "domestic company" means an Indian company, or any other company which, in respect of its income liable to income-tax under the Income-tax Act for the assessment year commencing on the 1st day of April, 1974, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income in accordance with the provisions of section 194 of that Act,

(c) "industrial company" means a company which is mainly engaged in the business of generation or distribution of electricity or any other form of power or in the construction of ships or in the manufacture or processing of goods or in mining,

Explanation—For the purposes of this clause, a company shall be deemed to be mainly engaged in the business of generation or distribution of electricity or any other form of power or in the construction of ships or in the manufacture or processing of goods or in mining, if the income attributable to any one or more of the aforesaid activities included in its total income of the previous year (as computed before making any deduction under Chapter VI-A of the Income-tax Act) is not less than fifty-one per cent of such total income,

(d) "insurance commission" means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance),

(e) "net agricultural income", in relation to a person, means the total amount of agricultural income, from whatever source derived, of that person computed in accordance with the rules contained in Part IV of the First Schedule,

(f) "tax-free security" means any security of the Central Government issued or declared to be income-tax free, or any security of a State Government issued income-tax free, the income-tax whereon is payable by the State Government,

(g) all other words and expressions used in this section or in section 16 or in the First Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings, respectively, assigned to them in that Act

CHAPTER III

DIRECT TAXES

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Miscellaneous

16. Continuance of development rebate in certain cases.—The notification of the Government of India in the Ministry of Finance (Department of Revenue and Insurance) No S O 2167, dated the 28th day of May, 1971, issued under sub-section (5) of section 33 of the Income-tax Act shall not apply in respect of—

(a) any ship acquired after the 31st day of May, 1974, but before the *[1st day of January, 1977,] by any assessee, if the assessee furnishes evidence to the satisfaction of the Income-tax Officer that he had, before the 1st day of December, 1973, entered into a contract for the purchase of such ship with the builder or owner thereof,

(b) any machinery or plant, being coal-fired equipment, or any machinery or plant for converting oil-fired equipment into coal-fired equipment, installed by any assessee after the 31st day of May, 1974, but before the 1st day of June, 1977,

*Substituted for "1st day of June, 1975" by s 30, F Act, 1975, w e f 1-4-1975

Explanation.—In this clause, "equipment" means a boiler, furnace, kiln, oven or the like,

(*c*) any machinery or plant [not being machinery or plant referred to in clause (*b*)] installed by any assessee after the 31st day of May, 1974, but before the 1st day of June, 1975, if the assessee furnishes evidence to the satisfaction of the Income-tax Officer that before the 1st day of December, 1973, he had purchased such machinery or plant or had entered into a contract for the purchase of such machinery or plant with the manufacturer or owner of, or a dealer in, such machinery or plant, or had, where such machinery or plant has been manufactured in an undertaking owned by the assessee, taken steps for the manufacture of such machinery or plant,

and accordingly the provisions of the Income-tax Act shall have effect in relation to such ship, machinery or plant, subject to the conditions specified in clauses (*a*), (*b*) and (*c*)

17. Amendment of sections 80N and 80-O of the Income-tax Act as they stood during certain periods.—The provisions of section 80N of the Income-tax Act, as they stood immediately before the 1st day of April, 1969, and the provisions of section 80-O of that Act, as they stood from time to time before the 1st day of April, 1972, shall have and shall be deemed to have had effect subject to the modification that the deduction under the said provisions shall be allowed only with reference to the income referred to therein which is received in convertible foreign exchange in India, or having been received in convertible foreign exchange outside India, or having been converted into convertible foreign exchange outside India, is brought into India, by or on behalf of the assessee in accordance with any law for the time being in force for regulating payments and dealings in foreign exchange

Explanation.—For the purposes of this section,—

(*i*) "convertible foreign exchange" means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of the law for the time being in force for regulating payments and dealings in foreign exchange,

(*ii*) any income used by the assessee outside India in the manner permitted by the Reserve Bank of India shall be deemed to have been brought into India in accordance with the law for the time being in force for regulating payments and dealings in foreign exchange, on the date on which such permission is given

* * *

THE FIRST SCHEDULE

[See section 2]

PART I

Income-tax and surcharges on income-tax

Paragraph A

Sub-Paragraph I

In the case of every individual or Hindu undivided family or unregistered firm or other association of persons or body of individuals, whether incorporated or not,

Rr 20, 20A, 20B, 49 [18][29. **Notice of demand.**—When any [19][tax, penalty or interest] is due in consequence of any order passed under or in pursuance of this Act, the Income-tax Officer shall serve upon the assessee or other person liable to pay such [19][tax, penalty or interest] a notice of demand in the prescribed form specifying the sum so payable.]

30. Appeal against assessment under this Act.—(1) Any assessee objecting to the amount [20][of income assessed under section 23 or section 27, or the amount of loss computed under section 24 or the amount of tax determined under section 23 or section 27], or denying his liability to be assessed under this Act, [21][or objecting to the cancellation by an Income-tax Officer of the registration of a firm under sub-section (4) of section 23 or to a refusal to register a firm under sub-section (4) of section 23 or section 26A] or to make a fresh assessment under section 27, or [22][objecting] to any order [23]* * under sub-section (2) of section 25 [24][or section 25A] [22][or sub-section (2) of section 26] or section 28 made by an Income-tax Officer, [22][or objecting to any penalty imposed by an Income-tax Officer under sub-section (6) of section 44E or sub-section (5) of section 44F or sub-section (1) of section 46, or objecting to a refusal of an Income-tax Officer to allow a claim to a refund under section 48, 49 or 49F, or to the amount of the refund allowed by the Income-tax Officer under any of those sections, and any assessee, being a company, objecting to an order made by an Income-tax Officer under sub-section (1) of section 23A], may appeal to the [25][Appellate Assistant Commissioner] against the assessment or against such refusal or order:

[1][Provided that no appeal shall lie against an order under sub-section (1) of section 46 unless the tax has been paid

Provided further that where the partners of a firm are individually assessable on their shares in the total income of the firm, any such partner may appeal to the Appellate Assistant Commissioner against any order of an Income-tax Officer determining the amount of the total income or the loss of the firm or the apportionment thereof between the several partners, but in respect of matters which are determined by such order may not appeal against the assessment of his own total income

Provided further that a shareholder in a company in respect of which an order under section 23A has been passed by an Income-tax Officer, may not in respect of matters determined by such order appeal against the assessment of his own total income]

[2][(1A) Any person having, in accordance with the provisions of sub-section [3]* * (3B) [3]* * of section 18, read with sub-section (6) of that section, deducted and paid tax in respect of any sum chargeable under this Act other than interest who denies his liability to make such deduction may appeal to the Appellate Assistant Commissioner to be declared not liable to make such deduction]

(2) The appeal shall ordinarily be presented within thirty days [4][of the payment of the tax deducted under sub-section (3A), (3B) or (3C) of section 18 or] of receipt

[18] Substituted by s 35, Indian I T (Amendment) Act, 1939
[19] Substituted for "tax or penalty" by s 8, Indian I T (Amendment) Act, 1944.
[20] Substituted for "or rate at which he is assessed under section 23 or section 27" by s 36, Indian I T (Amendment) Act, 1939
[21] Substituted for "or objecting to a refusal of an Income-tax Officer to register a firm under section 26A" by s 9, Indian I T (Amendment) Act, 1944
[22] Inserted by s 36, Indian I T (Amendment) Act, 1939
[23] "Against him" omitted, *ibid*
[24] Inserted by s 4, Indian I T (Second Amendment) Act, 1930
[25] Substituted for "Assistant Commissioner" by s 36, Indian I T (Amendment) Act, 1939
[1] Substituted, *ibid*
[2] Inserted by s 9, Indian I T (Amendment) Act, 1944
[3] "(3A)" and "or (3C)" omitted by s. 16, Indian I T (Amendment) Act, 1953, w e f 1-4-1952
[4] Inserted by s 9, Indian I T (Amendment) Act, 1944

Sub-Paragraph II

In the case of every Hindu undivided family which at any time during the previous year has at least one member whose total income of the previous year relevant to the assessment year commencing on the 1st day of April, 1974, exceeds Rs. 5,000,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 5,000	Nil,
(2) where the total income exceeds Rs 5,000 but does not exceed Rs 10,000	17 per cent. of the amount by which the total income exceeds Rs 5,000,
(3) where the total income exceeds Rs 10,000 but does not exceed Rs 15,000	Rs 850 *plus* 23 per cent of the amount by which the total income exceeds Rs 10,000,
(4) where the total income exceeds Rs 15,000 but does not exceed Rs 20,000	Rs 2,000 *plus* 30 per cent of the amount by which the total income exceeds Rs 15,000,
(5) where the total income exceeds Rs 20,000 but does not exceed Rs 25,000	Rs 3,500 *plus* 40 per cent of the amount by which the total income exceeds Rs 20,000,
(6) where the total income exceeds Rs 25,000 but does not exceed Rs 30,000	Rs 5,500 *plus* 50 per cent of the amount by which the total income exceeds Rs 25,000,
(7) where the total income exceeds Rs. 30,000 but does not exceed Rs 40,000	Rs 8,000 *plus* 60 per cent of the amount by which the total income exceeds Rs 30,000,
(8) where the total income exceeds Rs 40,000 but does not exceed Rs 60,000	Rs 14,000 *plus* 70 per cent of the amount by which the total income exceeds Rs 40,000,
(9) where the total income exceeds Rs 60,000 but does not exceed Rs 80,000	Rs 28,000 *plus* 75 per cent of the amount by which the total income exceeds Rs 60,000,
(10) where the total income exceeds Rs 80,000 but does not exceed Rs 1,00,000	Rs 43,000 *plus* 80 per cent of the amount by which the total income exceeds Rs 80,000,
(11) where the total income exceeds Rs 1,00,000	Rs 59,000 *plus* 85 per cent of the amount by which the total income exceeds Rs 1,00,000

SURCHARGE ON INCOME-TAX

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of fifteen per cent of such income-tax

Paragraph B

In the case of every co-operative society,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 10,000	15 per cent of the total income,
(2) where the total income exceeds Rs 10,000 but does not exceed Rs 20,000	Rs 1,500 *plus* 25 per cent of the amount by which the total income exceeds Rs 10,000,
(3) where the total income exceeds Rs 20,000	Rs 4,000 *plus* 40 per cent of the amount by which the total income exceeds Rs 20,000

or every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, not being a case to which Sub-Paragraph II of this Paragraph or any other Paragraph of this Part applies,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 5,000	Nil,
(2) where the total income exceeds Rs 5,000 but does not exceed Rs 10,000	10 per cent of the amount by which the total income exceeds Rs 5,000;
(3) where the total income exceeds Rs 10,000 but does not exceed Rs 15,000	Rs 500 *plus* 17 per cent of the amount by which the total income exceeds Rs 10,000,
(4) where the total income exceeds Rs 15,000 but does not exceed Rs 20,000	Rs 1,350 *plus* 23 per cent of the amount by which the total income exceeds Rs 15,000,
(5) where the total income exceeds Rs 20,000 but does not exceed Rs 25,000	Rs 2,500 *plus* 30 per cent of the amount by which the total income exceeds Rs 20,000,
(6) where the total income exceeds Rs 25,000 but does not exceed Rs 30,000	Rs 4,000 *plus* 40 per cent of the amount by which the total income exceeds Rs 25,000,
(7) where the total income exceeds Rs 30,000 but does not exceed Rs 40,000	Rs 6,000 *plus* 50 per cent of the amount by which the total income exceeds Rs 30,000,
(8) where the total income exceeds Rs 40,000 but does not exceed Rs 60,000	Rs 11,000 *plus* 60 per cent of the amount by which the total income exceeds Rs 40,000,
(9) where the total income exceeds Rs 60,000 but does not exceed Rs 80,000	Rs 23,000 *plus* 70 per cent of the amount by which the total income exceeds Rs 60,000,
(10) where the total income exceeds Rs 80,000 but does not exceed Rs 1,00,000	Rs 37,000 *plus* 75 per cent of the amount by which the total income exceeds Rs 80,000,
(11) where the total income exceeds Rs 1,00,000 but does not exceed Rs 2,00,000	Rs. 52,000 *plus* 80 per cent of the amount by which the total income exceeds Rs 1,00,000,
(12) where the total income exceeds Rs 2,00,000	Rs 1,32,000 *plus* 85 per cent of the amount by which the total income exceeds Rs 2,00,000

SURCHARGE ON INCOME-TAX

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the following rates, namely —

(*a*) in a case where the total income does not exceed Rs 15,000	10 per cent ,
(*b*) in any other case	15 per cent .

Provided that the amount of surcharge payable shall, in no case, exceed the aggregate of the following sums, namely —

(*i*) an amount calculated at the rate of 10 per cent on the amount of income-tax on an income of Rs 15,000, if such income had been the total income (the income of Rs 15,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the person concerned), and

(*ii*) 40 per cent of the amount by which the total income exceeds Rs 15,000

SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union calculated at the rate of fifteen per cent. of such income-tax.

Paragraph E

In the case of the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956),—

RATES OF INCOME-TAX

(*i*) on that part of its total income which consists of profits and gains from life insurance business	52.5 per cent ;
(*ii*) on the balance, if any, of the total income	the rate of income-tax applicable, in accordance with Paragraph F of this Part, to the total income of a domestic company which is a company in which the public are substantially interested.

SURCHARGE ON INCOME-TAX

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge calculated at the rate of five per cent. of such income-tax.

Paragraph F

In the case of a company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956),—

RATES OF INCOME-TAX

I. In the case of a domestic company—

(1) where the company is a company in which the public are substantially interested,—	
(*i*) in a case where the total income does not exceed Rs 1,00,000	45 per cent. of the total income;
(*ii*) in a case where the total income exceeds Rs. 1,00,000	55 per cent. of the total income;
(2) where the company is not a company in which the public are substantially interested,—	
(*i*) in the case of an industrial company—	
(*a*) on so much of the total income as does not exceed Rs. 2,00,000	55 per cent.;
(*b*) on the balance, if any, of the total income	60 per cent.;
(*ii*) in any other case	65 per cent. of the total income.

Provided that the income-tax payable by a domestic company, being a company in which the public are substantially interested, the total income of which exceeds Rs. 1,00,000, shall not exceed the aggregate of—

(*a*) the income-tax which would have been payable by the company if its total income had been Rs. 1,00,000 (the income of Rs. 1,00,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the company), and

(*b*) eighty per cent. of the amount by which its total income exceeds Rs. 1,00,000.

SURCHARGE ON INCOME-TAX

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of fifteen per cent. of such income-tax

Paragraph C

In the case of every registered firm,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 10,000	Nil,
(2) where the total income exceeds Rs 10,000 but does not exceed Rs 25,000	4 per cent of the amount by which the total income exceeds Rs 10,000,
(3) where the total income exceeds Rs 25,000 but does not exceed Rs 50,000	Rs 600 *plus* 6 per cent of the amount by which the total income exceeds Rs 25,000,
(4) where the total income exceeds Rs 50,000 but does not exceed Rs 1,00,000	Rs 2,100 *plus* 12 per cent of the amount by which the total income exceeds Rs 50,000,
(5) where the total income exceeds Rs 1,00,000	Rs 8,100 *plus* 20 per cent of the amount by which the total income exceeds Rs 1,00,000

SURCHARGES ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by the aggregate of surcharges for purposes of the Union calculated as specified hereunder —

(*a*) in the case of a registered firm whose total income includes income derived from a profession carried on by it and the income so included is not less than fifty-one per cent of such total income, a surcharge calculated at the rate of ten per cent of the amount of income-tax computed at the rate hereinbefore specified,

(*b*) in the case of any other registered firm, a surcharge calculated at the rate of twenty per cent of the amount of income-tax computed at the rate hereinbefore specified, and

(*c*) a special surcharge calculated at the rate of fifteen per cent on the aggregate of the following amounts, namely —

(*i*) the amount of income-tax computed at the rate hereinbefore specified; and

(*ii*) the amount of the surcharge calculated in accordance with clause (*a*) or, as the case may be, clause (*b*)

Explanation —For the purposes of this Paragraph, "registered firm" includes an unregistered firm assessed as a registered firm under clause (*b*) of section 183 of the Income-tax Act

Paragraph D

In the case of every local authority,—

RATE OF INCOME-TAX

On the whole of the total income	50 per cent

	Income-tax	
	Rate of income-tax	Rate of surcharge
2 In the case of a company—		
(*a*) where the company is a domestic company—		
(*i*) on income by way of interest other than "Interest on securities"	20 per cent	1 per cent ,
(*ii*) on any other income (excluding interest payable on a tax-free security)	22 per cent	1 per cent ,
(*b*) where the company is not a domestic company—		
(*i*) on income by way of dividends payable by any domestic company	24 5 per cent	1 225 per cent ,
(*ii*) on income by way of royalties payable by an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1961, and which has been approved by the Central Government	50 per cent	2 5 per cent ,
(*iii*) on income by way of fees payable by an Indian concern for rendering technical services in pursuance of an agreement made by it with the Indian concern after the 29th day of February, 1964, and which has been approved by the Central Government	50 per cent	2 5 per cent ,
(*iv*) on income by way of interest payable on a tax-free security	44 per cent	2 2 per cent ,
(*v*) on any other income	70 per cent	3 5 per cent

PART III

Rates for calculating or charging income-tax in certain cases, deducting income-tax from income chargeable under the head "Salaries" or any payment referred to in sub-section (9) of section 80E and computing "advance tax"

In cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or deducted under sub-section (9) of section 80E of the said Act from any payment referred to in the said sub-section (9) or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force, such income-tax or, as the case may be, "advance tax" (not being "advance tax" in respect of any income chargeable to tax under section 164 of the Income-tax Act at the rate of sixty-five per cent) shall be so calculated, charged, deducted or computed at the following rate or rates —

Paragraph A

Sub-Paragraph I

In the case of every individual or Hindu undivided family or unregistered firm or other association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, not being a case to which Sub-Paragraph II of this Paragraph or any other Paragraph of this Part applies,—

II. In the case of a company other than a domestic company—

(i) on so much of the total income as consists of—

(a) royalties received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1961, or

(b) fees for rendering technical services received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 29th day of February, 1964,

and where such agreement has, in either case, been approved by the Central Government — 50 per cent ,

(ii) on the balance, if any, of the total income — 70 per cent

SURCHARGE ON INCOME-TAX

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge calculated at the rate of five per cent of such income-tax

PART II

Rates for deduction of tax at source in certain cases

In every case in which under the provisions of sections 193, 194, 194A, 194B, 194D and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to deduction, at the following rates·—

	Income-tax	
	Rate of income-tax	Rate of surcharge
1 In the case of a person other than a company—		
(a) where the person is resident—		
(i) on income by way of interest other than "Interest on securities"	10 per cent	Nil,
(ii) on income by way of winnings from lotteries and crossword puzzles	30 per cent	3 per cent ,
(iii) on income by way of insurance commission	10 per cent	Nil,
(iv) on any other income (excluding interest payable on a tax-free security)	21 per cent	2 per cent ,
(b) where the person is not resident in India—		
(i) on the whole income (excluding interest payable on a tax-free security)	income-tax at 30 per cent and surcharge at 3 per cent of the amount of the income *or* income-tax and surcharge on income-tax in respect of the income at the rates prescribed in Sub-Paragraph I of Paragraph A of Part III of this Schedule, if such income had been the total income, whichever is higher,	
(ii) on income by way of interest payable on a tax-free security	15 per cent	1 5 per cent

(7) where the total income exceeds Rs 30,000 but does not exceed Rs 50,000	Rs 7,600 *plus* 60 per cent of the amount by which the total income exceeds Rs 30,000,
(8) where the total income exceeds Rs 50,000	Rs 19,600 *plus* 70 per cent of the amount by which the total income exceeds Rs 50,000

SURCHARGE ON INCOME-TAX

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax

Paragraph B

In the case of every co-operative society,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 10,000	15 per cent of the total income,
(2) where the total income exceeds Rs 10,000 but does not exceed Rs 20,000	Rs 1,500 *plus* 25 per cent of the amount by which the total income exceeds Rs 10,000,
(3) where the total income exceeds Rs 20,000	Rs 4,000 *plus* 40 per cent of the amount by which the total income exceeds Rs 20,000

SURCHARGE ON INCOME-TAX

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax

Paragraph C

Sub-Paragraph I

In the case of every registered firm, not being a case to which Sub-Paragraph II of this Paragraph applies,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 10,000	Nil,
(2) where the total income exceeds Rs 10,000 but does not exceed Rs 25,000	5 per cent of the amount by which the total income exceeds Rs 10,000,
(3) where the total income exceeds Rs 25,000 but does not exceed Rs 50,000	Rs 750 *plus* 7 per cent of the amount by which the total income exceeds Rs 25,000,
(4) where the total income exceeds Rs 50,000 but does not exceed Rs 1,00,000	Rs 2,500 *plus* 15 per cent of the amount by which the total income exceeds Rs 50,000,
(5) where the total income exceeds Rs 1,00,000	Rs 10,000 *plus* 24 per cent of the amount by which the total income exceeds Rs 1,00,000

SURCHARGE ON INCOME-TAX

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax

Rates of income-tax

(1) where the total income does not exceed Rs 6,000	Nil,
(2) where the total income exceeds Rs 6,000 but does not exceed Rs 10,000	12 per cent of the amount by which the total income exceeds Rs 6,000,
(3) where the total income exceeds Rs 10,000 but does not exceed Rs 15,000	Rs 480 *plus* 15 per cent of the amount by which the total income exceeds Rs 10,000,
(4) where the total income exceeds Rs 15,000 but does not exceed Rs 20,000	Rs 1,230 *plus* 20 per cent of the amount by which the total income exceeds Rs 15,000,
(5) where the total income exceeds Rs 20,000 but does not exceed Rs 25,000	Rs 2,230 *plus* 30 per cent of the amount by which the total income exceeds Rs 20,000,
(6) where the total income exceeds Rs 25,000 but does not exceed Rs 30,000	Rs 3,730 *plus* 40 per cent of the amount by which the total income exceeds Rs 25,000,
(7) where the total income exceeds Rs 30,000 but does not exceed Rs 50,000	Rs 5,730 *plus* 50 per cent of the amount by which the total income exceeds Rs 30,000,
(8) where the total income exceeds Rs 50,000 but does not exceed Rs 70,000	Rs 15,730 *plus* 60 per cent of the amount by which the total income exceeds Rs 50,000,
(9) where the total income exceeds Rs 70,000	Rs 27,730 *plus* 70 per cent of the amount by which the total income exceeds Rs 70,000

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax

Sub-Paragraph II

In the case of every Hindu undivided family which at any time during the previous year has at least one member whose total income of the previous year relevant to the assessment year commencing on the 1st day of April, 1975, exceeds Rs. 6,000,—

Rates of income-tax

(1) where the total income does not exceed Rs 6,000	Nil,
(2) where the total income exceeds Rs 6,000 but does not exceed Rs 10,000	15 per cent of the amount by which the total income exceeds Rs 6,000,
(3) where the total income exceeds Rs 10,000 but does not exceed Rs 15,000	Rs 600 *plus* 20 per cent of the amount by which the total income exceeds Rs 10,000,
(4) where the total income exceeds Rs 15,000 but does not exceed Rs 20,000	Rs 1,600 *plus* 30 per cent of the amount by which the total income exceeds Rs 15,000,
(5) where the total income exceeds Rs 20,000 but does not exceed Rs 25,000	Rs 3,100 *plus* 40 per cent of the amount by which the total income exceeds Rs 20,000,
(6) where the total income exceeds Rs 25,000 but does not exceed Rs 30,000	Rs 5,100 *plus* 50 per cent of the amount by which the total income exceeds Rs 25,000,

SURCHARGE ON INCOME-TAX

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge calculated at the rate of five per cent of such income-tax

Paragraph F

In the case of a company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956),—

RATES OF INCOME-TAX

I In the case of a domestic company—

(1) where the company is a company in which the public are substantially interested,—	
(*i*) in a case where the total income does not exceed Rs 1,00,000	45 per cent of the total income,
(*ii*) in a case where the total income exceeds Rs 1,00,000	55 per cent of the total income,
(2) where the company is not a company in which the public are substantially interested,—	
(*i*) in the case of an industrial company—	
(*a*) on so much of the total income as does not exceed Rs 2,00,000	55 per cent ,
(*b*) on the balance, if any, of the total income	60 per cent ,
(*ii*) in any other case	65 per cent of the total income

Provided that the income-tax payable by a domestic company, being a company in which the public are substantially interested, the total income of which exceeds Rs 1,00,000, shall not exceed the aggregate of—

(*a*) the income-tax which would have been payable by the company if its total income had been Rs 1,00,000 (the income of Rs 1,00,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the company), and

(*b*) eighty per cent of the amount by which its total income exceeds Rs 1,00,000

II. In the case of a company other than a domestic company—

(*i*) on so much of the total income as consists of—	
(*a*) royalties received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1961, or	
(*b*) fees for rendering technical services received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 29th day of February, 1964,	
and where such agreement has, in either case, been approved by the Central Government	50 per cent ,
(*ii*) on the balance, if any, of the total income	70 per cent

Sub-Paragraph II

In the case of every registered firm whose total income includes income derived from a profession carried on by it and the income so included is not less than fifty-one per cent of such total income,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 10,000	Nil,
(2) where the total income exceeds Rs 10,000 but does not exceed Rs 25,000	4 per cent of the amount by which the total income exceeds Rs 10,000,
(3) where the total income exceeds Rs 25,000 but does not exceed Rs 50,000	Rs 600 *plus* 7 per cent of the amount by which the total income exceeds Rs 25,000,
(4) where the total income exceeds Rs 50,000 but does not exceed Rs 1,00,000	Rs 2,350 *plus* 13 per cent of the amount by which the total income exceeds Rs 50,000,
(5) where the total income exceeds Rs 1,00,000	Rs 8,850 *plus* 22 per cent of the amount by which the total income exceeds Rs 1,00,000

SURCHARGE ON INCOME-TAX

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax.

Explanation —For the purposes of this Paragraph, "registered firm" includes an unregistered firm assessed as a registered firm under clause (*b*) of section 183 of the Income-tax Act.

Paragraph D

In the case of every local authority,—

RATE OF INCOME-TAX

On the whole of the total income	50 per cent.

SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax

Paragraph E

In the case of the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956),—

RATES OF INCOME-TAX

(*i*) on that part of its total income which consists of profits and gains from life insurance business	52 5 per cent ,
(*ii*) on the balance, if any, of the total income	the rate of income-tax applicable, in accordance with Paragraph F of this Part, to the total income of a domestic company which is a company in which the public are substantially interested

of the notice of demand relating to the assessment or penalty objected to [5][or of the order in writing notifying the amount of total income on which the determination under sub-section (5) of section 23 was based and the apportionment thereof between the several partners or of the loss computed under section 24] [6][or of the intimation of the refusal [7][to pass an order under sub-section (1) of section 25A, or] to register a firm under section 26A] or of the date of the refusal to make a fresh assessment under section 27, [8][or of the intimation of an order under sub-section (1) of section 23A or under section 48, 49 or 49F], as the case may be, but the [9][Appellate Assistant Commissioner] may admit an appeal after the expiration of the period if he is satisfied that the appellant had sufficient cause for not presenting it within that period

(3) The appeal shall be in the prescribed form and shall be verified in the prescribed manner Rr 21, 21A

31. Hearing of appeal.—(1) The [9][Appellate Assistant Commissioner] shall fix a day and place for the hearing of the appeal, and may from time to time adjourn the hearing

(2) The [9][Appellate Assistant Commissioner] may, before disposing of any appeal, make such further inquiry as he thinks fit, or cause further inquiry to be made by the Income-tax Officer

[10][(2A) The Appellate Assistant Commissioner may, at the hearing of an appeal, allow an appellant to go into any ground of appeal not specified in the grounds of appeal, if the Appellate Assistant Commissioner is satisfied that the omission of that ground from the form of appeal was not wilful or unreasonable]

(3) In disposing of an appeal the [11][Appellate Assistant Commissioner] may, in the case of an order of assessment,—

(*a*) confirm, reduce, enhance or annul the assessment, [12]* * or

(*b*) set aside the assessment and direct the Income-tax Officer to make a fresh assessment after making such further inquiry as the Income-tax Officer thinks fit or the [11][Appellate Assistant Commissioner] may direct, and the Income-tax Officer shall thereupon proceed to make such fresh assessment [13][and determine where necessary the amount of tax payable on the basis of such fresh assessment],

[14][or, *in the case of an order cancelling the registration of a firm under sub-section* (4) of section 23 or refusing to register a firm under sub-section (4) of section 23 or section 26A] or to make a fresh assessment under section 27,

(*c*) confirm such order, or cancel it and direct the Income-tax Officer [15][to register the firm or to make a fresh assessment, as the case may be],

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5 Inserted by s 15, Indian I T (Amendment) Act, 1941
6 Inserted by s 12, Indian I T (Second Amendment) Act, 1933
7 Inserted by s 2 and Sch I, Repealing and Amending Act, 1937
8 Inserted by s 36, Indian I T (Amendment) Act, 1939
9 Substituted for "Assistant Commissioner" by s 37, *ibid*
10 Inserted, *ibid*
11 Substituted for "Assistant Commissioner", *ibid*
12 "And, in the case of an assessment on a firm or association of persons, authorise the Income-tax Officer to amend accordingly any assessment made on any partner of the firm or any member of the association" omitted by s 16, Indian I T (Amendment) Act, 1941
13 Inserted by s 37, Indian I T (Amendment) Act, 1939
14 Substituted for "or in the case of an order refusing to register a firm under section 26A" (which had been inserted by s 5, Indian I T (Second Amendment) Act, 1930) by s 10, Indian I T (Amendment) Act, 1944
15 Substituted for "to make a fresh assessment" by s 13, Indian I T (Second Amendment) Act, 1933

SURCHARGE ON INCOME-TAX

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge calculated at the rate of five per cent of such income-tax

PART IV

[See section 2(8)(*e*)]

Rules for computation of net agricultural income

Rule 1—Agricultural income of the nature referred to in sub-clause (*a*) of clause (*1*) of section 2 of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from other sources" and the provisions of sections 57 to 59 of that Act shall, so far as may be, apply accordingly

Provided that sub-section (2) of section 58 shall apply subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-sections (3) and (4) of section 40A

Rule 2—Agricultural income of the nature referred to in sub-clause (*b*) or sub-clause (*c*) of clause (*1*) of section 2 of the Income-tax Act [other than income derived from any building required as a dwelling house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (*c*)] shall be computed as if it were income chargeable to income-tax under that Act under the head "Profits and gains of business or profession" and the provisions of sections 30, 31, 32, 34, 36, 37, 38, 40, 40A [other than sub-sections (3) and (4) thereof], 41, 43 and 43A of the Income-tax Act shall, so far as may be, apply accordingly

Rule 3—Agricultural income of the nature referred to in sub-clause (*c*) of clause (*1*) of section 2 of the Income-tax Act, being income derived from any building required as a dwelling house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (*c*) shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from house property" and the provisions of sections 23 to 27 of that Act shall, so far as may be, apply accordingly

Provided that sub-section (2) of the said section 23 shall apply subject to the modifications that the references to "total income" therein shall be construed as references to net agricultural income and that the words, figures and letter "and before making any deduction under Chapter VI-A" shall be omitted

Rule 4—Notwithstanding anything contained in any other provisions of these rules, in a case where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962, and sixty per cent of such income shall be regarded as the agricultural income of the assessee

Rule 5—Where the assessee is a partner of a registered firm or an unregistered firm assessed as a registered firm under clause (*b*) of section 183 of the Income-tax Act, which in the previous year has any agricultural income, or is a partner of an unregistered firm which has not been assessed as a registered firm under clause (*b*) of the said section 183 and which in the previous year has either no income chargeable

to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an unregistered firm but has any agricultural income, then, the agricultural income or loss of the firm shall be computed in accordance with these rules and his share in the agricultural income or loss of the firm shall be computed in the manner laid down in sub-section (1), sub-section (2) and sub-section (3) of section 67 of the Income-tax Act and the share so computed shall be regarded as the agricultural income or loss of the assessee

Rule 6 —Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) but has any agricultural income, then, the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee

Rule 7 —Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee, if any, for that previous year from any other source of agricultural income

Provided that where the assessee is a partner of an unregistered firm which has not been assessed as a registered firm under clause (*b*) of section 183 of the Income-tax Act or is a member of an association of persons or body of individuals and the share of the assessee in the agricultural income of the firm, association or body, as the case may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income

Rule 8 —Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income

Rule 9 —(1) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 1975, or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than that previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1974, is a loss, then, for the purposes of sub-section (7) of section 2 of this Act, the loss so computed shall be set off against the agricultural income of the assessee for the previous year first-mentioned or the period aforesaid

(2) Where a change has occurred in the constitution of a firm, nothing in sub-rule (1) shall entitle the firm to set off so much of the loss proportionate to the share of a retired or deceased partner computed in the manner laid down in sub-section (1), sub-section (2) and sub-section (3) of section 67 as exceeds his share of profits, if any, of the previous year in the firm, or entitle any partner to the benefit of any portion of the said loss (computed in the manner aforesaid) which is not apportionable to him

(3) Where any person deriving any agricultural income from any source has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in sub-rule (1) shall entitle any person other than the person incurring the loss to have it set off under that sub-rule

(4) Notwithstanding anything contained in this rule, no loss which has not been determined by the Income-tax Officer under the provisions of these rules shall be set off under sub-rule (1)

Rule 10 —Where the net result of the computation made in accordance with these rules is a loss, the loss so computed shall be ignored and the net agricultural income shall be deemed to be nil

Rule 11 —The provisions of the Income-tax Act relating to procedure for assessment (including the provisions of section 288A relating to rounding off of income) shall, with the necessary modifications, apply in relation to the computation of the net agricultural income of the assessee as they apply in relation to the assessment of the total income

Rule 12 —For the purposes of computing the net agricultural income of the assessee, the Income-tax Officer shall have the same powers as he has under the Income-tax Act for the purposes of assessment of the total income.

* * *

THE FINANCE ACT, 1975

(ACT NO. XXV OF 1975)

(*Received the assent of the President on 12th May 1975*)

CHAPTER I

PRELIMINARY

1. Short title and commencement.—(1) This Act may be called the Finance Act, 1975

(2) Save as otherwise provided in this Act, sections 2 to 30 shall be deemed to have come into force on the 1st day of April, 1975

CHAPTER II

RATES OF INCOME-TAX

2. Income-tax.—(1) Subject to the provisions of sub-sections (2), (3) and (4), for the assessment year commencing on the 1st day of April, 1975, income-tax shall be charged at the rates specified in Part I of the First Schedule and shall be increased,—

(*a*) in the cases to which Paragraphs A, B, C and D of that Part apply, by a surcharge for purposes of the Union, and

(*b*) in the cases to which Paragraphs E and F of that Part apply, by a surcharge,

calculated in each case in the manner provided therein

(2) In the cases to which Sub-Paragraph I or Sub-Paragraph II of Paragraph A of Part I of the First Schedule applies, where the assessee has, in the previous year, any net agricultural income, in addition to total income, and the total income exceeds six thousand rupees, then,—

(*a*) the net agricultural income shall be taken into account, in the manner provided in clause (*b*) (that is to say, as if the net agricultural income were comprised in the total income after the first six thousand rupees of the total income but without being liable to tax), only for the purpose of charging income-tax in respect of the total income, and

(*b*) the income-tax chargeable shall be calculated as follows —

(*i*) the total income and the net agricultural income shall be aggregated and the amount of income-tax shall be determined in respect of the aggregate income at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if such aggregate income were the total income,

(*ii*) the net agricultural income shall be increased by a sum of six thousand rupees and the amount of income-tax shall be determined in respect of the net agricultural income as so increased at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if the net agricultural income as so increased were the total income,

(*iii*) the amount by which income-tax determined in accordance with sub-clause (*i*) exceeds the amount of income-tax determined in accordance with sub-clause (*ii*) shall be the income-tax chargeable in respect of the total income

(3) Where in the case of a company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956), the total income includes any profits and gains from life insurance business, the income-tax payable by it shall be the aggregate of the income-tax calculated—

(*i*) on the amount of profits and gains from life insurance business so included, at the rate applicable in the case of the Life Insurance Corporation of India, in accordance with Paragraph E of Part I of the First Schedule, to that part of its total income which consists of profits and gains from life insurance business, and

(*ii*) on the remaining part of its total income, at the rate applicable to the company on its total income

(4) In cases to which Chapter XII or section 164 of the Income-tax Act, 1961 (XLIII of 1961), (hereinafter referred to as the Income-tax Act) applies, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter or section, as the case may be

(5) In cases in which tax has to be deducted under sections 193, 194, 194A, 194B, 194D and 195 of the Income-tax Act at the rates in force, the deduction shall be made at the rates specified in Part II of the First Schedule

(6) Subject to the provisions of sub-section (7), in cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or deducted under sub-section (9) of section 80E of the said Act from any payment referred to in the said sub-section (9) or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be so calculated, charged, deducted or computed at the rate or rates specified in Part III of the First Schedule

Provided that in respect of any income chargeable to tax under section 164 of the Income-tax Act at the rate of sixty-five per cent, "advance tax" shall be computed at that rate

(7) In the cases to which Sub-Paragraph I or Sub-Paragraph II of Paragraph A of Part III of the First Schedule applies, where the assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any net agricultural income, in addition to total income, and the total income exceeds *[eight] thousand rupees, then, in calculating income-tax under the first proviso to sub-section (5) of section 132 of the Income-tax Act or in charging income-tax under sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or in computing the "advance tax" payable under Chapter XVII-C of the said Act, at the rate or rates in force,—

(*a*) the net agricultural income shall be taken into account, in the manner provided in clause (*b*) (that is to say, as if the net agricultural income were comprised in the total income after the first *[eight] thousand rupees of the total income but without being liable to tax), only for the purpose of calculating, charging or computing such income-tax or, as the case may be, "advance tax" in respect of the total income, and

*Substituted for "six" by s 2, F (Amendment) Act, 1975, w e f 1-4-1975 See the note on p 1108

(*b*) such income-tax or, as the case may be, "advance tax" shall be so calculated, charged or computed as follows —

(*i*) the total income and the net agricultural income shall be aggregated and the amount of income-tax or "advance tax" shall be determined in respect of the aggregate income at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if such aggregate income were the total income,

(*ii*) the net agricultural income shall be increased by a sum of *[eight] thousand rupees and the amount of income-tax or "advance tax" shall be determined in respect of the net agricultural income as so increased at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if the net agricultural income as so increased were the total income,

(*iii*) the amount by which income-tax or, as the case may be, "advance tax" determined in accordance with sub-clause (*i*) exceeds the amount of income-tax or "advance tax" determined in accordance with sub-clause (*ii*) shall be the income-tax or "advance tax" in respect of the total income

(8) For the purposes of this section and the First Schedule,—

(*a*) "company in which the public are substantially interested" means a company which is such a company as is referred to in section 108 of the Income-tax Act,

(*b*) "domestic company" means an Indian company, or any other company which, in respect of its income liable to income-tax under the Income-tax Act for the assessment year commencing on the 1st day of April, 1975, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income in accordance with the provisions of section 194 of that Act,

(*c*) "industrial company" means a company which is mainly engaged in the business of generation or distribution of electricity or any other form of power or in the construction of ships or in the manufacture or processing of goods or in mining,

Explanation—For the purposes of this clause, a company shall be deemed to be mainly engaged in the business of generation or distribution of electricity or any other form of power or in the construction of ships or in the manufacture or processing of goods or in mining, if the income attributable to any one or more of the aforesaid activities included in its total income of the previous year (as computed before making any deduction under Chapter VI-A of the Income-tax Act) is not less than fifty-one per cent of such total income,

(*d*) "insurance commission" means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance),

(*e*) "net agricultural income", in relation to a person, means the total amount of agricultural income, from whatever source derived, of that person

* Substituted for "six" by s 2, F (Amendment) Act 1975, w e f 1-4-1975 See the note on p 1108

computed in accordance with the rules contained in Part IV of the First Schedule,

(*f*) "tax-free security" means any security of the Central Government issued or declared to be income-tax free, or any security of a State Government issued income-tax free, the income-tax whereon is payable by the State Government,

(*g*) all other words and expressions used in this section or in the First Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings, respectively, assigned to them in that Act

* * *

THE FIRST SCHEDULE

[See section 2]

PART I

Income-tax and surcharge on income-tax

Paragraph A

Sub-Paragraph I

In the case of every individual or Hindu undivided family or unregistered firm or other association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, not being a case to which Sub-Paragraph II of this Paragraph or any other Paragraph of this Part applies,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 6,000	Nil,
(2) where the total income exceeds Rs 6,000 but does not exceed Rs 10,000	12 per cent of the amount by which the total income exceeds Rs 6,000,
(3) where the total income exceeds Rs 10,000 but does not exceed Rs 15,000	Rs 480 *plus* 15 per cent of the amount by which the total income exceeds Rs 10,000,
(4) where the total income exceeds Rs 15,000 but does not exceed Rs 20,000	Rs 1,230 *plus* 20 per cent of the amount by which the total income exceeds Rs 15,000,
(5) where the total income exceeds Rs 20,000 but does not exceed Rs 25,000	Rs 2,230 *plus* 30 per cent of the amount by which the total income exceeds Rs 20,000,
(6) where the total income exceeds Rs 25,000 but does not exceed Rs 30,000	Rs 3,730 *plus* 40 per cent of the amount by which the total income exceeds Rs 25,000,
(7) where the total income exceeds Rs 30,000 but does not exceed Rs 50,000	Rs 5,730 *plus* 50 per cent of the amount by which the total income exceeds Rs 30,000,
(8) where the total income exceeds Rs 50,000 but does not exceed Rs 70,000	Rs 15,730 *plus* 60 per cent of the amount by which the total income exceeds Rs 50,000,
(9) where the total income exceeds Rs 70,000	Rs 27,730 *plus* 70 per cent of the amount by which the total income exceeds Rs 70,000

SURCHARGE ON INCOME-TAX

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax

Sub-Paragraph II

In the case of every Hindu undivided family which at any time during the previous year has at least one member whose total income of the previous year relevant to the assessment year commencing on the 1st day of April, 1975, exceeds Rs 6,000,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 6,000	Nil,
(2) where the total income exceeds Rs 6,000 but does not exceed Rs 10,000	15 per cent of the amount by which the total income exceeds Rs 6,000,
(3) where the total income exceeds Rs 10,000 but does not exceed Rs 15,000	Rs 600 *plus* 20 per cent of the amount by which the total income exceeds Rs 10,000,
(4) where the total income exceeds Rs 15,000 but does not exceed Rs 20,000	Rs 1,600 *plus* 30 per cent of the amount by which the total income exceeds Rs 15,000,
(5) where the total income exceeds Rs 20,000 but does not exceed Rs 25,000	Rs 3,100 *plus* 40 per cent of the amount by which the total income exceeds Rs 20,000,
(6) where the total income exceeds Rs 25,000 but does not exceed Rs 30,000	Rs 5,100 *plus* 50 per cent of the amount by which the total income exceeds Rs 25,000,
(7) where the total income exceeds Rs 30,000 but does not exceed Rs 50,000	Rs 7,600 *plus* 60 per cent of the amount by which the total income exceeds Rs 30,000,
(8) where the total income exceeds Rs 50,000	Rs 19,600 *plus* 70 per cent of the amount by which the total income exceeds Rs 50,000

SURCHARGE ON INCOME-TAX

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax

Paragraph B

In the case of every co-operative society,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 10,000	15 per cent of the total income,
(2) where the total income exceeds Rs 10,000 but does not exceed Rs 20,000	Rs 1,500 *plus* 25 per cent of the amount by which the total income exceeds Rs 10,000,
(3) where the total income exceeds Rs 20,000	Rs 4,000 *plus* 40 per cent of the amount by which the total income exceeds Rs 20,000

SURCHARGE ON INCOME-TAX

The amount of income-tax c[illegible]ance with the preceding provisions of this Paragraph shall be i[illegible]arge for purposes of the Union calculated at the rate of ten [illegible]e-tax

Paragraph C

Sub-Paragraph I

In the case of every registered firm, not being a case to which Sub-Paragraph II of this Paragraph applies,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 10,000	Nil,
(2) where the total income exceeds Rs 10,000 but does not exceed Rs 25,000	5 per cent of the amount by which the total income exceeds Rs 10,000,
(3) where the total income exceeds Rs 25,000 but does not exceed Rs 50,000	Rs 750 *plus* 7 per cent of the amount by which the total income exceeds Rs 25,000,
(4) where the total income exceeds Rs 50,000 but does not exceed Rs 1,00,000	Rs 2,500 *plus* 15 per cent of the amount by which the total income exceeds Rs 50,000,
(5) where the total income exceeds Rs 1,00,000	Rs 10,000 *plus* 24 per cent of the amount by which the total income exceeds Rs 1,00,000

SURCHARGE ON INCOME-TAX

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax

Sub-Paragraph II

In the case of every registered firm whose total income includes income derived from a profession carried on by it and the income so included is not less than fifty-one per cent of such total income,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 10,000	Nil,
(2) where the total income exceeds Rs 10,000 but does not exceed Rs 25,000	4 per cent of the amount by which the total income exceeds Rs 10,000,
(3) where the total income exceeds Rs 25,000 but does not exceed Rs 50,000	Rs 600 *plus* 7 per cent of the amount by which the total income exceeds Rs 25,000,
(4) where the total income exceeds Rs 50,000 but does not exceed Rs 1,00,000	Rs 2,350 *plus* 13 per cent of the amount by which the total income exceeds Rs 50,000,
(5) where the total income exceeds Rs 1,00,000	Rs 8,850 *plus* 22 per cent of the amount by which the total income exceeds Rs 1,00,000

SURCHARGE ON INCOME-TAX

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax

Explanation—For the purposes of this Paragraph, "registered firm" includes an unregistered firm assessed as a registered firm under clause (*b*) of section 183 of the Income-tax Act

Paragraph D

In the case of every local authority,—

RATE OF INCOME-TAX

On the whole of the total income	50 per cent

SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax

Paragraph E

In the case of the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956),—

RATES OF INCOME-TAX

(*i*) on that part of its total income which consists of profits and gains from life insurance business	52 5 per cent ,
(*ii*) on the balance, if any, of the total income	the rate of income-tax applicable, in accordance with Paragraph F of this Part, to the total income of a domestic company which is a company in which the public are substantially interested

SURCHARGE ON INCOME-TAX

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge calculated at the rate of five per cent. of such income-tax

Paragraph F

In the case of a company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956),—

RATES OF INCOME-TAX

I. In the case of a domestic company—

(1) where the company is a company in which the public are substantially interested,—	
(*i*) in a case where the total income does not exceed Rs 1,00,000	45 per cent of the total income,
(*ii*) in a case where the total income exceeds Rs 1,00,000	55 per cent of the total income,
(2) where the company is not a company in which the public are substantially interested,—	
(*i*) in the case of an industrial company—	
(*a*) on so much of the total income as does not exceed Rs 2,00,000	55 per cent ,
(*b*) on the balance, if any, of the total income	60 per cent ,
(*ii*) in any other case	65 per cent of the total income

[5][(7) (*a*) Subject to the provisions of clause (*b*), no deduction shall be allowed in respect of any provision (whether called as such or by any other name) made by the assessee for the payment of gratuity to his employees on their retirement or on termination of their employment for any reason

(*b*) Nothing in clause (*a*) shall apply in relation to—

(*i*) any provision made by the assessee for the purpose of payment of a sum by way of any contribution towards an approved gratuity fund, or for the purpose of payment of any gratuity, that has become payable during the previous year,

(*ii*) any provision made by the assessee for the previous year relevant to any assessment year commencing on or after the 1st day of April, 1973, but before the 1st day of April, 1976, to the extent the amount of such provision does not exceed the admissible amount, if the following conditions are fulfilled, namely —

(*1*) the provision is made in accordance with an actuarial valuation of the ascertainable liability of the assessee for payment of gratuity to his employees on their retirement or on termination of their employment for any reason,

(*2*) the assessee creates an approved gratuity fund for the exclusive benefit of his employees under an irrevocable trust, the application for the approval of the fund having been made before the 1st day of January, 1976, and

(*3*) a sum equal to at least fifty per cent of the admissible amount, or where any amount has been utilised out of such provision for the purpose of payment of any gratuity before the creation of the approved gratuity fund, a sum equal to at least fifty per cent. of the admissible amount as reduced by the amount so utilised, is paid by the assessee by way of contribution to the approved gratuity fund before the 1st day of April, 1976, and the balance of the admissible amount or, as the case may be, the balance of the admissible amount as reduced by the amount so utilised, is paid by the assessee by way of such contribution before the 1st day of April, 1977

Explanation 1 —For the purpose of sub-clause (*ii*) of clause (*b*) of this sub-section, "admissible amount" means the amount of the provision made by the assessee for the payment of gratuity to his employees on their retirement or on termination of their employment for any reason, to the extent such amount does not exceed an amount calculated at the rate of eight and one-third per cent of the salary (as defined in clause (*h*) of rule 2 of Part A of the Fourth Schedule) of each employee entitled to the payment of such gratuity for each year of his service in respect of which such provision is made

Explanation 2 —For the removal of doubts, it is hereby declared that where any provision made by the assessee for the payment of gratuity to his employees on their retirement or on termination of their employment for any reason has been allowed as a deduction in computing the income of the assessee for any assessment year, any sum paid out of such provision by way of contribution towards an approved gratuity fund or by way of gratuity to any employee shall not be allowed as a deduction in computing the income of the assessee of the previous year in which the sum is so paid]

[5] Inserted by s 6, F Act, 1975, w e f 1-4-1973

	Income-tax	
	Rate of income-tax	Rate of surcharge
(b) where the person is not resident in India—		
(i) on the whole income (excluding interest payable on a tax-free security)	income-tax at 30 per cent and surcharge at 3 per cent of the amount of the income *or* income-tax and surcharge on income-tax in respect of the income at the rates prescribed in Sub-Paragraph I of Paragraph A of Part III of this Schedule, if such income had been the total income, whichever is higher,	
(ii) on income by way of interest payable on a tax-free security	15 per cent	1 5 per cent
2 In the case of a company—		
(a) where the company is a domestic company—		
(i) on income by way of interest other than "Interest on securities"	20 per cent	1 per cent ,
(ii) on any other income (excluding interest payable on a tax-free security)	22 per cent	1 per cent ,
(b) where the company is not a domestic company—		
(i) on income by way of dividends payable by any domestic company	24 5 per cent	1 225 per cent ,
(ii) on income by way of royalties payable by an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1961, and which has been approved by the Central Government	50 per cent	2 5 per cent ,
(iii) on income by way of fees payable by an Indian concern for rendering technical services in pursuance of an agreement made by it with the Indian concern after the 29th day of February, 1964, and which has been approved by the Central Government	50 per cent	2 5 per cent ,
(iv) on income by way of interest payable on a tax-free security	44 per cent	2 2 per cent ,
(v) on any other income	70 per cent	3 5 per cent

PART III

Rates for calculating or charging income-tax in certain cases, deducting income-tax from income chargeable under the head "Salaries" or any payment referred to in sub-section (9) of section 80E and computing "advance tax"

In cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or deducted under sub-section (9) of section 80E of the said Act from any payment referred to in the said sub-section (9) or in which

Provided that the income-tax payable by a domestic company, being a company in which the public are substantially interested, the total income of which exceeds Rs 1,00,000, shall not exceed the aggregate of—

(*a*) the income-tax which would have been payable by the company if its total income had been Rs 1,00,000 (the income of Rs 1,00,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the company), and

(*b*) eighty per cent of the amount by which its total income exceeds Rs 1,00,000

II In the case of a company other than a domestic company—

(*i*) on so much of the total income as consists of—	
(*a*) royalties received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1961, or	
(*b*) fees for rendering technical services received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 29th day of February, 1964,	
and where such agreement has, in either case, been approved by the Central Government	50 per cent ,
(*ii*) on the balance, if any, of the total income	70 per cent

SURCHARGE ON INCOME-TAX

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge calculated at the rate of five per cent of such income-tax

PART II

Rates for deduction of tax at source in certain cases

In every case in which under the provisions of sections 193, 194, 194A, 194B, 194D and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to deduction at the following rates —

	Income-tax	
	Rate of income-tax	Rate of surcharge
1 In the case of a person other than a company—		
(*a*) where the person is resident—		
(*i*) on income by way of interest other than "Interest on securities"	10 per cent	Nil,
(*ii*) on income by way of winnings from lotteries and crossword puzzles	30 per cent	3 per cent ,
(*iii*) on income by way of insurance commission	10 per cent	Nil,
(*iv*) on any other income (excluding interest payable on a tax-free security)	21 per cent	2 per cent ,

SURCHARGE ON INCOME-TAX

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax.

Sub-Paragraph II

In the case of every Hindu undivided family which at any time during the previous year has at least one member whose total income of the previous year relevant to the assessment year commencing on the 1st day of April, 1976, exceeds Rs 8,000,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 8,000	Nil,
(2) where the total income exceeds Rs 8,000 but does not exceed Rs 15,000	20 per cent of the amount by which the total income exceeds Rs 8,000,
(3) where the total income exceeds Rs 15,000 but does not exceed Rs 20,000	Rs 1,400 *plus* 30 per cent of the amount by which the total income exceeds Rs 15,000,
(4) where the total income exceeds Rs 20,000 but does not exceed Rs 25,000	Rs 2,900 *plus* 40 per cent of the amount by which the total income exceeds Rs 20,000,
(5) where the total income exceeds Rs 25,000 but does not exceed Rs 30,000	Rs 4,900 *plus* 50 per cent of the amount by which the total income exceeds Rs 25,000,
(6) where the total income exceeds Rs 30,000 but does not exceed Rs 50,000	Rs 7,400 *plus* 60 per cent of the amount by which the total income exceeds Rs 30,000,
(7) where the total income exceeds Rs 50,000	Rs 19,400 *plus* 70 per cent of the amount by which the total income exceeds Rs 50,000

SURCHARGE ON INCOME-TAX

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax]

Paragraph B

In the case of every co-operative society,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 10,000	15 per cent of the total income,
(2) where the total income exceeds Rs 10,000 but does not exceed Rs 20,000	Rs 1,500 *plus* 25 per cent of the amount by which the total income exceeds Rs 10,000,
(3) where the total income exceeds Rs 20,000	Rs 4,000 *plus* 40 per cent of the amount by which the total income exceeds Rs 20,000

SURCHARGE ON INCOME-TAX

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax

the "advance tax" payable under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force, such income-tax or, as the case may be, "advance tax" (not being "advance tax" in respect of any income chargeable to tax under section 164 of the Income-tax Act at the rate of sixty-five per cent) shall be so calculated, charged, deducted or computed at the following rate or rates —

*[*Paragraph A*

Sub-Paragraph I

In the case of every individual or Hindu undivided family or unregistered firm or other association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, not being a case to which Sub-Paragraph II of this Paragraph or any other Paragraph of this Part applies,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 8,000	Nil,
(2) where the total income exceeds Rs 8,000 but does not exceed Rs 15,000	17 per cent of the amount by which the total income exceeds Rs 8,000,
(3) where the total income exceeds Rs 15,000 but does not exceed Rs 20,000	Rs 1,190 *plus* 20 per cent of the amount by which the total income exceeds Rs 15,000,
(4) where the total income exceeds Rs 20,000 but does not exceed Rs 25,000	Rs 2,190 *plus* 30 per cent of the amount by which the total income exceeds Rs 20,000,
(5) where the total income exceeds Rs 25,000 but does not exceed Rs 30,000	Rs 3,690 *plus* 40 per cent of the amount by which the total income exceeds Rs 25,000,
(6) where the total income exceeds Rs 30,000 but does not exceed Rs 50,000	Rs 5,690 *plus* 50 per cent of the amount by which the total income exceeds Rs 30,000,
(7) where the total income exceeds Rs 50,000 but does not exceed Rs 70,000	Rs 15,690 *plus* 60 per cent of the amount by which the total income exceeds Rs 50,000,
(8) where the total income exceeds Rs 70,000	Rs 27,690 *plus* 70 per cent of the amount by which the total income exceeds Rs 70,000

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*Substituted by s 3, F (Amendment) Act, 1975, w e f 1-4-1975

"*Special provision in relation to advance tax payable during the financial year 1975-76* —Notwithstanding the amendments made by this Act to the principal Act, where, in the case of an assessee, an order has been made by the Income-tax Officer under section 210 of the Income-tax Act, 1961 (XLIII of 1961), and in pursuance thereof a notice of demand for payment of advance tax during the financial year commencing on the 1st day of April, 1975, has been issued by the Income-tax Officer before the commencement of this Act,—

(*i*) the validity of such order or notice shall not be called in question merely on the ground that the rate or rates for the purposes of computing the advance tax have been varied by this Act,

(*ii*) every such order and notice of demand shall have effect as if the amount of advance tax specified therein had been substituted by the amount of advance tax computed in accordance with the rate or rates as so varied, and

(*iii*) the excess amount, if any, paid by the assessee in an instalment due on the 15th day of June, 1975, may be adjusted against the amount payable in the instalment due on the 15th day of September, 1975

Explanation —All words and expressions used in this section which are defined in the Income-tax Act, 1961 (XLIII of 1961), shall have the meanings, respectively, assigned to them in that Act "
—*S 4, F (Amendment) Act, 1975*

Paragraph D

In the case of every local authority,—

RATE OF INCOME-TAX

On the whole of the total income	50 per cent

SURCHARGE ON INCOME-TAX

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax

Paragraph E

In the case of the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956),—

RATES OF INCOME-TAX

(i) on that part of its total income which consists of profits and gains from life insurance business	52 5 per cent ,
(ii) on the balance, if any, of the total income	the rate of income-tax applicable, in accordance with Paragraph F of this Part, to the total income of a domestic company which is a company in which the public are substantially interested

SURCHARGE ON INCOME-TAX

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge calculated at the rate of five per cent of such income-tax

Paragraph F

In the case of a company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956),—

RATES OF INCOME-TAX

I. In the case of a domestic company—

(1) where the company is a company in which the public are substantially interested,—	
(i) in a case where the total income does not exceed Rs 1,00,000	45 per cent of the total income,
(ii) in a case where the total income exceeds Rs 1,00,000	55 per cent of the total income,
(2) where the company is not a company in which the public are substantially interested,—	
(i) in the case of an industrial company—	
(a) where the total income does not exceed Rs 2,00,000	55 per cent of the total income,
(b) where the total income exceeds Rs 2,00,000	60 per cent of the total income,
(ii) in any other case	65 per cent of the total income

Paragraph C

Sub-Paragraph I

In the case of every registered firm, not being a case to which Sub-Paragraph II of this Paragraph applies,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 10,000	Nil,
(2) where the total income exceeds Rs 10,000 but does not exceed Rs 25,000	5 per cent of the amount by which the total income exceeds Rs 10,000,
(3) where the total income exceeds Rs 25,000 but does not exceed Rs 50,000	Rs 750 *plus* 7 per cent of the amount by which the total income exceeds Rs 25,000,
(4) where the total income exceeds Rs 50,000 but does not exceed Rs 1,00,000	Rs 2,500 *plus* 15 per cent of the amount by which the total income exceeds Rs 50,000,
(5) where the total income exceeds Rs 1,00,000	Rs 10,000 *plus* 24 per cent of the amount by which the total income exceeds Rs 1,00,000

SURCHARGE ON INCOME-TAX

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax

Sub-Paragraph II

In the case of every registered firm whose total income includes income derived from a profession carried on by it and the income so included is not less than fifty-one per cent of such total income,—

RATES OF INCOME-TAX

(1) where the total income does not exceed Rs 10,000	Nil,
(2) where the total income exceeds Rs 10,000 but does not exceed Rs 25,000	4 per cent of the amount by which the total income exceeds Rs 10,000,
(3) where the total income exceeds Rs 25,000 but does not exceed Rs 50,000	Rs 600 *plus* 7 per cent of the amount by which the total income exceeds Rs 25,000,
(4) where the total income exceeds Rs 50,000 but does not exceed Rs 1,00,000	Rs 2,350 *plus* 13 per cent of the amount by which the total income exceeds Rs 50,000,
(5) where the total income exceeds Rs 1,00,000	Rs 8,850 *plus* 22 per cent of the amount by which the total income exceeds Rs 1,00,000

SURCHARGE ON INCOME-TAX

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax

Explanation —For the purposes of this Paragraph, "registered firm" includes an unregistered firm assessed as a registered firm under clause (*b*) of section 183 of the Income-tax Act

Provided that sub-section (2) of section 58 shall apply subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-sections (3) and (4) of section 40A

Rule 2—Agricultural income of the nature referred to in sub-clause (*b*) or sub-clause (*c*) of clause (*1*) of section 2 of the Income-tax Act [other than income derived from any building required as a dwelling house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (*c*)] shall be computed as if it were income chargeable to income-tax under that Act under the head "Profits and gains of business or profession" and the provisions of sections 30, 31, 32, 34, 36, 37, 38, 40, 40A [other than sub-sections (3) and (4) thereof], 41, 43 and 43A of the Income-tax Act shall, so far as may be, apply accordingly.

Rule 3—Agricultural income of the nature referred to in sub-clause (*c*) of clause (*1*) of section 2 of the Income-tax Act, being income derived from any building required as a dwelling house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (*c*) shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from house property" and the provisions of sections 23 to 27 of that Act shall, so far as may be, apply accordingly

Provided that sub-section (2) of the said section 23 shall apply subject to the modifications that the references to "total income" therein shall be construed as references to net agricultural income and that the words, figures and letter "and before making any deduction under Chapter VI-A" shall be omitted

Rule 4—Notwithstanding anything contained in any other provisions of these rules, in a case where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962, and sixty per cent of such income shall be regarded as the agricultural income of the assessee

Rule 5—Where the assessee is a partner of a registered firm or an unregistered firm assessed as a registered firm under clause (*b*) of section 183 of the Income-tax Act, which in the previous year has any agricultural income, or is a partner of an unregistered firm which has not been assessed as a registered firm under clause (*b*) of the said section 183 and which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an unregistered firm but has any agricultural income, then, the agricultural income or loss of the firm shall be computed in accordance with these rules and his share in the agricultural income or loss of the firm shall be computed in the manner laid down in sub-section (1), sub-section (2) and sub-section (3) of section 67 of the Income-tax Act and the share so computed shall be regarded as the agricultural income or loss of the assessee.

Rule 6—Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) but has any agricultural income, then, the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee

Rule 7—Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income

Provided that—

(i) the income-tax payable by a domestic company, being a company in which the public are substantially interested, the total income of which exceeds Rs 1,00,000, shall not exceed the aggregate of—

(a) the income-tax which would have been payable by the company if its total income had been Rs 1,00,000 (the income of Rs. 1,00,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the company), and

(b) eighty per cent of the amount by which its total income exceeds Rs 1,00,000,

(ii) the income-tax payable by a domestic company, not being a company in which the public are substantially interested, which is an industrial company and the total income of which exceeds Rs 2,00,000, shall not exceed the aggregate of—

(a) the income-tax which would have been payable by the company if its total income had been Rs 2,00,000 (the income of Rs 2,00,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the company), and

(b) eighty per cent of the amount by which its total income exceeds Rs 2,00,000

II In the case of a company other than a domestic company—

(i) on so much of the total income as consists of— (a) royalties received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1961, or (b) fees for rendering technical services received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 29th day of February, 1964, and where such agreement has, in either case, been approved by the Central Government	50 per cent ,
(ii) on the balance, if any, of the total income	70 per cent

SURCHARGE ON INCOME-TAX

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge calculated at the rate of five per cent of such income-tax

PART IV

[See section 2(8)(e)]

Rules for computation of net agricultural income

Rule 1—Agricultural income of the nature referred to in sub-clause (a) of clause (1) of section 2 of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from other sources" and the provisions of sections 57 to 59 of that Act shall, so far as may be, apply accordingly

(5) Notwithstanding anything contained in this rule, no loss which has not been determined by the Income-tax Officer under the provisions of these rules, or the rules contained in Part IV of the First Schedule to the Finance Act, 1974 (XX of 1974), shall be set off under sub-rule (1) or, as the case may be, sub-rule (2).

Rule 10—Where the net result of the computation made in accordance with these rules is a loss, the loss so computed shall be ignored and the net agricultural income shall be deemed to be nil.

Rule 11—The provisions of the Income-tax Act relating to procedure for assessment (including the provisions of section 288A relating to rounding off of income) shall, with the necessary modifications, apply in relation to the computation of the net agricultural income of the assessee as they apply in relation to the assessment of the total income.

Rule 12—For the purposes of computing the net agricultural income of the assessee, the Income-tax Officer shall have the same powers as he has under the Income-tax Act for the purposes of assessment of the total income.

* * *

of the assessee, if any, for that previous year from any other source of agricultural income

Provided that where the assessee is a partner of an unregistered firm which has not been assessed as a registered firm under clause (*b*) of section 183 of the Income-tax Act or is a member of an association of persons or body of individuals and the share of the assessee in the agricultural income of the firm, association or body, as the case may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income.

Rule 8.—Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income

Rule 9—(1) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 1975, any agricultural income and the net result of the computation of the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1974, is a loss, then, for the purposes of sub-section (2) of section 2 of this Act, the loss so computed shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1975

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 1976, or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than that previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1974, or the 1st day of April, 1975, or both, is a loss, then, for the purposes of sub-section (7) of section 2 of this Act,—

(*i*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1974, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1975, and

(*ii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1975,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1976, or the period aforesaid

(3) Where a change has occurred in the constitution of a firm, nothing in sub-rule (1) or sub-rule (2) shall entitle the firm to set off so much of the loss proportionate to the share of a retired or deceased partner computed in the manner laid down in sub-section (1), sub-section (2) and sub-section (3) of section 67 of the Income-tax Act as exceeds his share of profits, if any, of the previous year in the firm, or entitle any partner to the benefit of any portion of the said loss (computed in the manner aforesaid) which is not apportionable to him

(4) Where any person deriving any agricultural income from any source has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in sub-rule (1) or sub-rule (2) shall entitle any person, other than the person incurring the loss, to have it set off under sub-rule (1) or, as the case may be, sub-rule (2)

the Appellate Tribunal against such order, and such appeal may be made [25][within sixty days of the date on which the order is communicated to the Commissioner by the Appellate Assistant Commissioner]

[1][(2A) The Tribunal may admit an appeal after the expiry of the sixty days referred to in sub-sections (1) and (2) if it is satisfied that there was sufficient cause for not presenting it within that period]

(3) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner, and shall, except in the case of an appeal referred to in sub-section (2), be accompanied by a fee of one hundred rupees R 22

(4) The Appellate Tribunal may, after giving both parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, and shall communicate any such orders to the assessee and to the Commissioner

[2][(5) Where as the result of an appeal any change is made in the assessment of a firm or association of persons or a new assessment of a firm or association of persons is ordered to be made, the Appellate Tribunal may authorise the Income-tax Officer to amend accordingly any assessment made on any partner of the firm or any member of the association]

[3][(6)] Save as provided in section 66 orders passed by the Appellate Tribunal on appeal shall be final]

[4][**33A. Power of revision by Commissioner.**—(1) The Commissioner may of his own motion call for the record of any proceeding under this Act in which an order has been passed by any authority subordinate to him and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may pass such order thereon, not being an order prejudicial to the assessee, as he thinks fit

Provided that the Commissioner shall not revise any order under this sub-section if—

(*a*) where an appeal against the order lies to the Appellate Assistant Commissioner or to the Appellate Tribunal, the time within which such appeal may be made has not expired, or

(*b*) the order is pending on an appeal before the Appellate Assistant Commissioner or has been made the subject of an appeal to the Appellate Tribunal, or

(*c*) the order has been made more than one year previously.

(2) The Commissioner may, on application by an assessee for revision of an order under this Act passed by any authority subordinate to the Commissioner, made within one year from the date of the order [5][(or within such further period as the Commissioner may think fit to allow on being satisfied that the assessee was prevented by sufficient cause from making the application within that period)], call for the record of the proceeding in which such order was passed, and on receipt of the record may make such inquiry or cause such inquiry to be made, and, subject to the provisions of this Act, may pass such order thereon, not being an order prejudicial to the assessee, as he thinks fit

Provided that the Commissioner shall not revise any order under this sub-section if—

(*a*) where an appeal against the order lies to the Appellate Assistant Commissioner or to the Appellate Tribunal but has not been made, the time within

[25] Substituted for "at any time before the expiry of sixty days from the date of the order" by s 17, Indian I T (Amendment) Act, 1941
[1] Inserted, *ibid*
[2] Inserted by s 11, Indian I T (Amendment) Act, 1944
[3] Sub-s (5) renumbered "(6)", *ibid*
[4] Inserted by s 18, Indian I T (Amendment) Act, 1941
[5] Inserted by s 17, Indian I T (Amendment) Act, 1953, w e f 1-4-1952

B

THE GOVERNMENT TRADING TAXATION ACT, 1926

(ACT NO III OF 1926)

An Act to determine the liability of certain Governments to taxation [1]* * *in respect of trading operations*

[*24th February 1926*]

WHEREAS it is expedient to determine the liability to taxation for the time being in force [1]* * of the Government of any part of His Majesty's Dominions, [2]* * [3]* * in respect of any trade or business carried on by or on behalf of such Government, it is hereby enacted as follows —

1. Short title and commencement.—(1) This Act may be called the Government Trading Taxation Act, 1926

(2) [4]It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint

2. Liability of certain Governments to taxation in respect of trading operations.—(1) Where a trade or business of any kind is carried on by or on behalf of the Government of any part of His Majesty's Dominions, [2]* * that Government shall, in respect of the trade or business and of all operations connected therewith, all property occupied in [5][India] and all goods owned in [5][India] for the purposes thereof, and all income arising in connection therewith, be liable—

(*a*) to taxation under the Indian Income-tax Act, 1922 (XI of 1922), in the same manner and to the same extent as in the like case a company would be liable,

(*b*) to all other taxation for the time being in force in [5][India] in the same manner as in the like case any other person would be liable.

[6](1A) * * *

(2) For the purposes of the levy and collection of income-tax under the Indian Income-tax Act, 1922 (XI of 1922), in accordance with the provisions of sub-section (1), any Government to which that sub-section applies shall be deemed to be a company within the meaning of that Act, and the provisions of that Act shall apply accordingly

(3) In this section the expression "His Majesty's Dominions" includes any territory which is under His Majesty's protection or in respect of which a mandate is being exercised by the Government of any part of His Majesty's Dominions, [7]* *.

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[1] "In the Provinces of India" omitted by Adaptation of Laws Order, 1950

[2] "Exclusive of India" omitted, *ibid*

[3] "Or the Government of any Acceding State or other Indian State" omitted by Opium and Revenue Laws (Extension of Application) Act, 1950

[4] This Act came into force w e f 1-4-1926

[5] "The Provinces" substituted for "British India" by Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948, "Part A States and Part C States" substituted for "the Provinces" by Adaptation of Laws Order, 1950, "India" substituted for "Part A States and Part C States" by Opium and Revenue Laws (Extension of Application) Act, 1950

[6] Inserted by Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948, and omitted by Opium and Revenue Laws (Extension of Application) Act, 1950

[7] "And 'India' means the territory of India excluding the State of Jammu and Kashmir" added by Opium and Revenue Laws (Extension of Application) Act, 1950, and omitted by s 2 and Sch, Taxation Laws (Extension to Jammu and Kashmir) Act, 1954

[8][3. **Application of the Act to existing liability of Acceding or other Indian States.**—Where any Acceding State or other Indian State was liable for any tax under this Act in respect of any period before the 26th day of January, 1950, and such liability has, after that date, devolved [9][upon a Part B State], the provisions of section 2 shall apply in relation to that Part B State as they applied in relation to the corresponding Acceding State or other Indian State]

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[8] Added by Adaptation of Laws Order, 1950

[9] Substituted for "upon an Acceding State or other Indian State" by Opium and Revenue Laws (Extension of Application) Act, 1950

C

THE PAYMENT OF TAXES (TRANSFER OF PROPERTY) ACT, 1949

(ACT NO. XXII OF 1949)

(Received the assent of the Governor-General on 22nd April 1949.)

An Act to make provision for the payment of taxes before transfers of property are registered in certain cases

1. Short title and extent.—(1) This Act may be called the Payment of Taxes (Transfer of Property) Act, 1949.

(2) It extends to [1][the whole of India * *].

2. Application of Act.—This Act shall apply to any person—

(*i*) who, on account of the setting up of the Dominions of India and Pakistan, or on account of civil disturbances or the fear of such disturbances, leaves or has, since the 14th day of August, 1947, left any place in [2][India] for any place outside India, or who, since the said date, has been residing in any place outside India, or

(*ii*) who, in the opinion of any of the Income-tax authorities specified in sub-section (1) of section 5 of the Indian Income-tax Act, 1922 (XI of 1922), or a Custodian of Evacuee Property or a Collector, is likely to leave [2][India] with the intention of settling in any place outside [2][India], and in respect of whom a declaration that he is a person to whom this Act applies has been received from any such Income-tax authority, Custodian of Evacuee Property or Collector by the registering officer of the area in which any property belonging to such person is situate

[3] * * *

3. Payment of taxes before registration of documents.—(1) Where any document required to be registered under the provisions of clause (*a*), clause (*b*), clause (*c*) or clause (*e*) of sub-section (1) of section 17 of the Indian Registration Act, 1908 (XVI of 1908), purports to transfer, assign, limit or extinguish any right, title or interest in any property, other than agricultural land, belonging to any person to whom this Act applies, no registering officer appointed under the said Act shall register any such document, unless it is certified by the Income-tax Officer of the area in which the property is situate in respect of the person whose right, title or interest in the property is to be so transferred, assigned, limited or extinguished under the terms of the document that—

(*a*) such person is not liable to assessment or taxation under the Indian Income-tax Act, 1922 (XI of 1922), the Excess Profits Tax Act, 1940 (XV of 1940), or the Business Profits Tax Act, 1947 (XXI of 1947), or

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[1] "The whole of India except Part B States" substituted for "all the provinces of India" by Adaptation of Laws Order, 1950, "the whole of India except the State of Jammu and Kashmir" substituted for "the whole of India except Part B States" by Opium and Revenue Laws (Extension of Application) Act, 1950, "except the State of Jammu and Kashmir" omitted by s 2 and Sch, Taxation Laws (Extension to Jammu and Kashmir) Act, 1954

[2] Substituted for "the States" by s 2 and Sch, Taxation Laws (Extension to Jammu and Kashmir) Act, 1954 "States" had been substituted for "Provinces of India" by Adaptation of Laws Order, 1950

[3] The following *Explanation* omitted by s 2 and Sch, Taxation Laws (Extension to Jammu and Kashmir) Act, 1954

"*Explanation*—In this section 'States' does not include the State of Jammu and Kashmir"

(*b*) such person has either paid or made satisfactory provision for the payment of all existing or anticipated liabilities under any of the Acts specified in clause (*a*) of this sub-section , or

(*c*) the Income-tax Officer is otherwise satisfied that the registration of the document will not prejudicially affect the recovery of all existing or anticipated liabilities referred to in clause (*b*) of this sub-section

(2) Every Income-tax Officer refusing to issue a certificate under the provisions of sub-section (1) shall make an order of refusal and record his reasons therefor and, on application made by any person claiming to be affected by such order, shall, subject to the payment of such fee as may be prescribed, furnish him with a copy of the order

4. Recovery of taxes where property has been transferred without a certificate.—(1)Where, in respect of the transfer made on or after the seventh day of February, 1948, [4][in the territories which, immediately before the 1st November, 1956, were comprised in the States] of Bombay, West Bengal, [5][Punjab], Bihar, Delhi and [6][Ajmer], and in any [7][other territory] on or after the date on which the Transfer of Property (India) Ordinance, 1948 (III of 1948), was made applicable to [8][that territory], of any right, title or interest in any immovable property, other than agricultural land, belonging to any person to whom this Act applies, the Income-tax Officer of the area where the property is situate is satisfied, after giving such person notice in this behalf for a period of not less than one month, that no certificate in the terms mentioned in section 3 would have been issued to him if this Act had been in force on the date the transfer was made, he may forward a statement to the Collector showing the existing and anticipated liabilities by way of taxes in respect of all or any of the parties to the transfer

(2) On receipt of any statement under sub-section (1), the Collector shall proceed to recover the total amount shown in such statement as if it were an arrear of land revenue, and for the purpose of such recovery proceedings he may treat the property transferred as aforesaid as if it belonged to all or any of the persons named in the statement

5. Right of appeal.—An appeal shall lie against the order of any Income-tax Officer refusing to issue a certificate under the provisions of sub-section (2) of section 3 to the Commissioner of Income-tax to whom the Income-tax Officer is subordinate, if presented to such Commissioner within thirty days from the date of the order, and the Commissioner may pass such orders thereon as he may think fit

6. Effect of Act over other laws.—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force

7. Bar of suits.—No suit, prosecution or other legal proceeding shall lie against the Central Government or any person or authority in respect of anything which is in good faith done or intended to be done under this Act

8. Power to make rules.—The Central Government may make rules for the purpose of carrying into effect the objects of this Act, and, in particular, prescribe the fee payable under sub-section (2) of section 3

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4 Substituted for "in the States" by Adaptation of Laws (No 3) Order, 1956, w e f 1-11-1956
5 Substituted for "East Punjab" by Adaptation of Laws Order, 1950
6 Substituted for "Ajmer-Merwara", *ibid*
7 Substituted for "other State" by Adaptation of Laws (No 3) Order, 1956, w e f 1-11-1956
8 Substituted for "that State", *i* [illegible] e [illegible] -1956

9. Effect of expiry of Ordinance XXI of 1948.—On the expiry of the Payment of Taxes (Transfer of Property) Ordinance, 1948 (XXI of 1948), section 6 of the General Clauses Act, 1897 (X of 1897), shall apply as if the Ordinance had then been repealed by a Central Act

D

THE VOLUNTARY SURRENDER OF SALARIES (EXEMPTION FROM TAXATION) ACT, 1961

(ACT No XLVI OF 1961)

(Received the assent of the President on 6th December 1961)

An Act to provide for exempting from taxes on income a portion of the salary or allowances payable to any person who has in the public interest volunteered to forgo it

1. Short title.—This Act may be called the Voluntary Surrender of Salaries (Exemption from Taxation) Act, 1961

2. Exemption from taxes on income in respect of salaries surrendered in favour of Government.—Notwithstanding anything contained in the Indian Income-tax Act, 1922 (XI of 1922), or in any other law for the time being in force relating to taxation on income, no income-tax or super-tax shall be payable by any person—

(*a*) where his salary is paid out of the Consolidated Fund of India or of the Consolidated Fund of a State, in respect of that part of the salary due to him for any period after the 31st day of March, 1961, which he has, by a declaration in writing, volunteered to forgo in the public interest,

(*b*) in any other case, in respect of that part of the salary which is due to him for any period after the 31st day of March, 1961, which has been, in the public interest, surrendered in favour of, and paid to, the Central Government in accordance with the rules made in this behalf by that Government,

and such part of the salary shall not be included in his total income for the purposes of any law relating to taxation on income

3. Provisions of section 2 to apply to allowances.—The provisions of section 2 shall apply in relation to any allowances due to any such person as is referred to therein for any period after the 31st day of March, 1961, as they apply in relation to his salary

4. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act

(2) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days, which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule

5. Repeal.—(1) The Voluntary Surrender of Salaries (Exemption from Taxation) Act, 1950 (LXI of 1950), is hereby repealed

(2) Notwithstanding such repeal any declaration made under the said Act shall be deemed to be a declaration made for the purposes of this Act.

THE VOLUNTARY SURRENDER OF SALARIES (EXEMPTION FROM TAXATION) RULES, 1962

(*Notification No S O 3331, dated 30th October 1962*)

In exercise of the powers conferred by section 4, read with clause (*b*) of section 2 of the Voluntary Surrender of Salaries (Exemption from Taxation) Act, 1961 (XLVI of 1961), the Central Government hereby makes the following rules, namely

1. Short title.—These rules may be called the Voluntary Surrender of Salaries (Exemption from Taxation) Rules, 1962

2. Definitions.—In these rules, unless the context otherwise requires,—

(*a*) "Act" means the Voluntary Surrender of Salaries (Exemption from Taxation) Act, 1961,

(*b*) "due date" means the date on which salary is due to a person;

(*c*) "Disbursing Authority" in relation to a person, means the authority responsible for payment of salary to the person,

(*d*) "Form" means a form set out in the Schedule to these rules;

(*e*) "salary" in relation to a person includes any allowances payable to the person,

(*f*) "Income-tax Officer" has the same meaning as in the Income-tax Act, 1961 (XLIII of 1961)

3. Procedure for surrender of salary.—Any person, other than a person whose salary is paid out of the Consolidated Fund of India or of the Consolidated Fund of a State, desiring to surrender a part of his salary, shall make a declaration in duplicate in Form I, and shall send one copy to the Disbursing Authority so as to reach the Authority before the due date and the other copy to the Income-tax Officer having jurisdiction to assess him

4. Part surrendered to be credited to Central Government.—(1) The Disbursing Authority shall, when making payment of salary to any person from whom a declaration under rule 3 has been received, deduct from the salary payable to such person the part thereof covered by the declaration

(2) The Disbursing Authority shall, within seven days from the due date, credit the amount of salary deducted under sub-rule (1) to the Central Government. These credits will be received at·

(*i*) the offices of the Reserve Bank of India, Bombay, Calcutta, New Delhi, Madras, Bangalore and Nagpur,

(*ii*) branches of the State Bank of India and its subsidiary banks conducting Government Treasury business;

(*iii*) Treasuries and sub-treasuries in India other than those at any place referred to in item (*i*) or at any place where there is a branch of any of the banks referred to in item (*ii*) and classified under the head "LII—Miscellaneous—Receipts under the Voluntary Surrender of Salaries (Exemption from Taxation) Act, 1961—(Central)"

(3) The Disbursing Authority shall send one copy of the chalan evidencing the payment of the amount to the credit of the Central Government to the person making the declaration

(4) The chalans referred to in this rule shall be supplied by the Income-tax Officer on request

5. Annual Return.—The Disbursing Authority shall, before the 31st day of March in each year, deliver or cause to be delivered to the Income-tax Officer referred to in sub-rule (2) of rule 32 of the Income-tax Rules, 1962, a return for the year ending on that date in Form II, verified in the manner provided therein

SCHEDULE

FORM I

[See rule 3]

Form of declaration for surrendering part of salary or allowances

I hereby declare that I have, in the public interest, voluntarily surrendered in favour of the Central Government the following amounts out of the salary and allowances due to me for the month of in the year *or for each of the months beginning with the month of in the year and ending with the month of .. in the year .

	Rs	P
Amounts surrendered		
(i) Out of salary . ..		
(ii) Out of allowances		

The amounts surrendered by me out of the salary or allowances mentioned above should be paid to the credit of the Central Government within seven days of their becoming due to me

Date

Place

Signature of the employee

N B—A separate declaration in the above form shall be made by the employee for each financial year beginning on the 1st day of April during which such surrender is made and shall be forwarded to the person responsible for paying the salary and allowances, with a copy to the Income-tax Officer having jurisdiction to assess the employee before the date on which the salary or allowances of the first month to which the surrender relates, become due.

* Delete the inapplicable words

FORM II

[See rule 5]

Return of salary or allowances voluntarily surrendered by the employees during the financial year ended 31st March, 19 , and paid over to the credit of the Central Government

Name of employer

Name of person responsible for paying the salary or allowances (if not the employer)

Address

Sl No	Name of employee	Amount due to the employee		Amount surrendered by the employee			Period to which the amounts in cols 5 & 6 relate
		Salary	Allowances	Salary	Allowances	Total	
1	2	3	4	5	6	7	8
						Grand total of col 7	

I, , being the person responsible for paying the salary or allowances to the employees mentioned above do hereby declare that the above particulars are correct

I hereby further declare that the amounts of salary or allowances surrendered by the employees mentioned above during the year ending on 31st March, 19 . , have been paid over to the credit of the Central Government, *vide* particulars of chalans given on the reverse

Date

Place

Signature
Designation

Particulars of amounts paid over to the credit of the Central Government

Sl No	Date of payment into treasury, etc	No of chalan(s)	Amount		
			Salary	Allowances	Total
1	2	3	4	5	6
				Grand total	

Signature

E

THE UNIT TRUST OF INDIA ACT, 1963

(ACT NO LII OF 1963)

(Received the assent of the President on 30th December 1963)

An Act to provide for the establishment of a Corporation with a view to encouraging saving and investment and participation in the income, profits and gains accruing to the Corporation from the acquisition, holding, management and disposal of securities

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Unit Trust of India Act, 1963

(2) It extends to the whole of India

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint

* * *

CHAPTER VII

MISCELLANEOUS

* * *

32. Income-tax and other taxes.—(1) Notwithstanding anything contained in [1][the Wealth-tax Act, 1957 (XXVII of 1957),] the Income-tax Act, 1961 (XLIII of 1961), the Super Profits Tax Act, 1963 (XIV of 1963), [2][the Companies (Profits) Surtax Act, 1964 (VII of 1964),] or in any other enactment for the time being in force relating to income-tax, super-tax, [2]* super profits tax, [2][surtax] or any other tax on income, profits or gains—

(*a*) the Trust shall not be liable to pay income-tax, super-tax, super profits tax, [2][surtax] or any other tax in respect of any income, profits or gains derived by it from any source,

[3][(*aa*) in the case of an assessee who is not resident in India, being—

(*i*) an individual who is an Indian or a person of Indian origin, or

(*ii*) a Hindu undivided family,

there shall not be included in the total income of such assessee, for the purposes of the Income-tax Act, 1961 (XLIII of 1961), any income received by such assessee in the previous year in respect of units acquired by such assessee from the Trust, out of funds in a Non-resident (External)

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[1] Inserted by s 6, Trust Laws (Amendment) Act, 1975, w e f 1-4-1975

[2] The bracketed words inserted, and "or" omitted, by s 10, Unit Trust of India (Amendment) Act, 1966 The amendments were given retrospective effect from 1-4-1964, by s 45, F (No 2) Act, 1967

[3] Inserted by s 2, Unit Trust of India (Amendment) Act, 1976, w e f 24-1-1976

which such appeal may be made has not expired, or, in the case of an appeal to the Appellate Tribunal, the assessee has not waived his right of appeal, or

(b) where an appeal against the order has been made to the Appellate Assistant Commissioner, the appeal is pending before the Appellate Assistant Commissioner, or

(c) the order has been made the subject of an appeal to the Appellate Tribunal·

Provided further that an order by the Commissioner declining to interfere shall be deemed not to be an order prejudicial to the assessee.

[6][*Explanation*—For the purposes of sub-sections (1) and (2), the Appellate Assistant Commissioner shall be deemed to be an authority subordinate to the Commissioner]

(3) Every application by an assessee under sub-section (2) shall be accompanied by a fee of twenty-five rupees]

[7][**33B. Power of Commissioner to revise Income-tax Officer's orders.**—(1) The Commissioner may call for and examine the record of any proceeding under this Act and if he considers that any order passed therein by the Income-tax Officer is erroneous in so far as it is prejudicial to the interests of the revenue, he may, after giving the assessee an opportunity of being heard and after making or causing to be made such enquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment, or cancelling the assessment and directing a fresh assessment

(2) No order shall be made under sub-section (1)—

(a) to revise an order of reassessment made under the provisions of section 34, or

(b) after the expiry of two years from the date of the order sought to be revised

(3) Any assessee objecting to an order passed by the Commissioner under sub-section (1) may appeal to the Appellate Tribunal within sixty days of the date on which the order is communicated to him

R 22 (4) An appeal to the Appellate Tribunal under sub-section (3) shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a treasury receipt in support of having paid the fee of Rs 100, and such appeal shall be dealt with in the same manner as if it were an appeal under sub-section (1) of section 33]

[8][**34. Income escaping assessment.**—[9](1) If—

(a) the Income-tax Officer has reason to believe that by reason of the omission or failure on the part of an assessee to make a return of his income under

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[6] Inserted by s 17, Indian I T (Amendment) Act, 1953, w e f 1-4-1952

[7] Inserted by s 7, I T and B P T (Amendment) Act, 1948, w e f 30-3-1948

[8] Substituted by s 8, I T and B P T (Amendment) Act, 1948, w e f 30-3-1948

[9] "*Validity of certain notices and assessments*—For the removal of doubts it is hereby declared that the provisions of sub-sections (1), (2) and (3) of section 34 of the principal Act [the Indian Income-tax Act, 1922] shall apply and shall be deemed always to have applied to any assessment or reassessment for any year ending before the 1st day of April, 1948, in any case where proceedings in respect of such assessment or reassessment were commenced under the said sub-sections after the 8th day of September, 1948, and any notice issued in accordance with sub-section (1) or any assessment completed in pursuance of such notice within the time specified in sub-section (3), whether before or after the commencement of the Indian Income-tax (Amendment) Act, 1953, shall, notwithstanding any judgment or order of any court, Appellate Tribunal or Income-tax authority to the contrary, be deemed to have been validly issued or completed, as the case may be, and no such notice, assessment or reassessment shall be called in question on the ground merely that the provisions of section 34 did not apply or purport to apply in respect of an assessment or reassessment for any year prior to the 1st day of April, 1948"—*S 31, Indian I T (Amendment) Act, 1953*

payable in respect thereof shall be excluded from the total income of the said institution in computing its chargeable profits for the purposes of super profits tax [8][or surtax]

[9][*Explanation I*—In this sub-section,—

(*a*) in clauses (*aa*) and (*b*), the expressions "previous year" and "total income" shall have the meanings, respectively, assigned to them in the Income-tax Act, 1961 (XLIII of 1961),

(*b*) in clauses (*ba*) and (*bb*), the expressions "assessee" and "net wealth" shall have the meanings, respectively, assigned to them in the Wealth-tax Act, 1957 (XXVII of 1957)

Explanation II—For the purposes of sub-sections (1) and (2),—

(*a*) an assessee shall be deemed to be "not resident in India" if he is a non-resident within the meaning of clause (*30*) of section 2 of the Income-tax Act, 1961 (XLIII of 1961),

(*b*) a person shall be deemed to be a person of Indian origin if he or either of his parents or any of his grandparents howsoever high in degree of ascent, whether on the paternal side or on the maternal side, was born in India, as defined in the Government of India Act, 1935, as originally enacted]

(2) Notwithstanding anything contained in section 193 or section 194 of the Income-tax Act, 1961 (XLIII of 1961),—

(*a*) no deduction of income-tax or super-tax shall be made on any interest or dividend payable to the Trust in respect of any securities or shares owned by it or in which it has full beneficial interest, [10]*

(*b*) no deduction of income-tax shall be made by the Trust from the income distributed by it to a unit holder being an individual [10][who is resident, and]

[11][(*c*) where in the case of a unit holder, being an individual who is not resident in India, the income in respect of units receivable by him from the Trust during the financial year—

(*i*) does not exceed [12][five] thousand rupees, no deduction of income-tax shall be made by the Trust from the income distributed to him,

(*ii*) exceeds [12][five] thousand rupees, deduction of income-tax shall be made by the Trust from the whole of the income distributed to him at the rate of fifteen per cent of such income]

[13][Provided that no deduction of income-tax shall be made by the Trust, where the units in respect of which income is distributed to—

(*i*) an individual who is an Indian or a person of Indian origin, or

(*ii*) a Hindu undivided family,

not resident in India, have been acquired from the Trust, out of funds in a Non-resident (External) Account maintained with any bank

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[8] Inserted by s 10, Unit Trust of India (Amendment) Act, 1966, and given retrospective effect from 1-4-1964, by s 45, F (No 2) Act, 1967

[9] Inserted by s 2, Unit Trust of India (Amendment) Act, 1976, w e f 24-1-1976

[10] "And" omitted, and the bracketed words added, by s 73, F Act, 1965, w e f 1-4-1965

[11] Added, *ibid*, w e f 1-4-1965, and substituted by s 53, F Act, 1966, w e f 1-4-1966

[12] "Three" substituted for "one" by s 38, F Act, 1970, w e f 1-4-1970, and "five" for "three" by s 6, Trust Laws (Amendment) Act, 1975, w e f 1-4-1975

[13] Inserted by s 2, Unit Trust of India (Amendment) Act, 1976, w e f 24-1-1976

Account maintained with any bank in India or by the remittance of funds in foreign exchange, in accordance, in either case, with the provisions of the Foreign Exchange Regulation Act, 1973 (XLVI of 1973), or any rules or orders made thereunder,]

[4][(*b*) in the case of an assessee being—

(*i*) an individual, or

(*ii*) a Hindu undivided family, or

(*iii*) an association of persons or a body of individuals consisting only of husband and wife governed by the system of community of property in force in the Union territories of Dadra and Nagar Haveli and Goa, Daman and Diu,

there shall be allowed, in computing the total income of the assessee, for the purposes of the Income-tax Act, 1961 (XLIII of 1961), a further deduction of an amount equal to so much of the income in respect of units received by the assessee during the previous year as has not been allowed by way of deduction under section 80L of the Income-tax Act, 1961 (XLIII of 1961), so, however, that the amount to be deducted under the provisions of this clause shall not exceed two thousand rupees;

[5]* * *

(*ba*) in the case of an assessee, being an individual or a Hindu undivided family, wealth-tax shall not be payable by the assessee in respect of, and there shall not be included in, the net wealth of the assessee computed under the Wealth-tax Act, 1957 (XXVII of 1957), so much of the assets in the form of units [6][(not being assets referred to in clause (*bb*))] as have not been excluded from the net wealth of the assessee under section 5 of that Act, so, however, that the value of the assets excluded under this clause shall not exceed twenty-five thousand rupees,

[5]* * *]

[6][(*bb*) in the case of an assessee who is not resident in India, being an individual who is an Indian or a person of Indian origin, or a Hindu undivided family, wealth-tax shall not be payable by the assessee in respect of, and there shall not be included in, the net wealth of the assessee computed under the Wealth-tax Act, 1957 (XXVII of 1957), the value of the assets in the form of units acquired from the Trust, out of funds in a Non-resident (External) Account maintained with any bank in India or by the remittance of funds in foreign exchange, in accordance, in either case, with the provisions of the Foreign Exchange Regulation Act, 1973 (XLVI of 1973), or any rules or orders made thereunder,]

(*c*) where a contributing institution is liable to be assessed to super profits tax under the Super Profits Tax Act, 1963 (XIV of 1963), [7][or to surtax under the Companies (Profits) Surtax Act, 1964 (VII of 1964),] in respect of its own income, profits or gains and receives any sum from the Trust under this Act in respect of its contribution to the initial capital, such sum as reduced by the amount of any income-tax and super-tax

[4] Cl (*b*) originally substituted by s 73, F Act, 1965, w e f 1-4-1965, further substituted by s 53, F Act, 1966, w e f 1-4-1966, and omitted by s 38, F Act, 1970, w e f 1-4-1971 The present cls (*b*) and (*ba*) inserted by s 6, Trust Laws (Amendment) Act, 1975, w e. f 1-4-1975

[5] The Explanation omitted by s 2, Unit Trust of India (Amendment) Act, 1976, w e f 24-1-1976

[6] Inserted, *ibid*, w e f 24-1-1976

[7] Inserted by s 10, Unit Trust of India (Amendment) Act, 1966, and given retrospective effect from 1-4-1964, by s 45, F (No 2) Act, 1967

F

THE CENTRAL BOARDS OF REVENUE ACT, 1963

(ACT NO LIV OF 1963)

(Received the assent of the President on 30th December 1963)

An Act to provide for the constitution of separate Boards of Revenue for Direct Taxes and for Excise and Customs and to amend certain enactments for the purpose of conferring powers and imposing duties on the said Boards

1. Short title and commencement.—(1) This Act may be called the Central Boards of Revenue Act, 1963

(2) It shall come into force on such date[1] as the Central Government may, by notification in the Official Gazette, appoint

2. Definitions.—In this Act, unless the context otherwise requires,—

(*a*) "Board" means the Central Board of Direct Taxes or the Central Board of Excise and Customs constituted under section 3,

(*b*) "Central Board of Revenue" means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924 (IV of 1924),

(*c*) "direct tax" means—

(*1*) any duty leviable or tax chargeable under—

(*i*) the Estate Duty Act, 1953 (XXXIV of 1953),

(*ii*) the Wealth-tax Act, 1957 (XXVII of 1957),

(*iii*) the Expenditure-tax Act, 1957 (XXIX of 1957),

(*iv*) the Gift-tax Act, 1958 (XVIII of 1958),

(*v*) the Income-tax Act, 1961 (XLIII of 1961),

(*vi*) the Super Profits Tax Act, 1963 (XIV of 1963),

[2][(*vii*) the Interest-tax Act, 1974 (XLV of 1974), and]

(*2*) any other duty or tax which, having regard to its nature or incidence, may be declared by the Central Government, by notification in the Official Gazette, to be a direct tax [3]

3. Constitution of separate Central Boards for Direct Taxes and for Excise and Customs.—(1) The Central Government shall, in place of the Central Board of Revenue, constitute two separate Boards of Revenue to be called the Central Board of Direct Taxes and the Central Board of Excise and Customs, and each such Board shall, subject to the control of the Central Government, exercise such powers and perform such duties, as may be entrusted to that Board by the Central Government or by or under any law

(2) Each Board shall consist of such number of persons not exceeding five as the Central Government may think fit to appoint

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[1] The appointed date is 1-1-1964 *Notification No S O 3606, dated 30-12-1963*

[2] Inserted by s 30, Interest-tax Act, 1974

[3] The tax chargeable under (*i*) Indian Income-tax Act, 1922, (*ii*) Excess Profits Tax Act, 1940, and (*iii*) Business Profits Tax Act, 1947, has been declared to be a direct tax *Notification No S O 104, dated 1-1-1964*

in India or by the remittance of funds in foreign exchange, in accordance, in either case, with the provisions of the Foreign Exchange Regulation Act, 1973 (XLVI of 1973), or any rules or orders made thereunder]

(3) Subject to the foregoing sub-sections, for the purposes of the Income-tax Act, 1961 (XLIII of 1961),—

(*a*) any distribution of income received by a unit holder from the Trust shall be deemed to be his income by way of dividends, and

(*b*) the Trust shall be deemed to be a company.

* * *

(*b*) if it is a proceeding relating to any other matter, the Central Board of Excise and Customs shall be deemed to be substituted for the Central Board of Revenue in such proceeding

7. Power to remove difficulties.—(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the purposes of this Act as appear to it to be necessary or expedient for removing the difficulty

(2) An order under sub-section (1) may be made so as to have retrospective effect from a date not earlier than the date of the commencement of this Act

8. Repeal and saving.—(1) The Central Board of Revenue Act, 1924 (IV of 1924), is hereby repealed

(2) Nothing contained in sub-section (1) shall affect any appointment, assessment, order (including quasi-judicial order) or rule made, or exemption, approval or recognition granted, or any notice, notification, direction or instruction issued, or any duty levied, or penalty or fine imposed, or confiscation adjudged, or any form prescribed, or any other thing done or action taken by the Central Board of Revenue under any law and any such appointment, assessment, order, rule, exemption, approval, recognition, notice, notification, direction, instruction, duty, penalty, fine, confiscation, form, thing or action shall be deemed to have been made, granted, issued, levied, imposed, adjudged, prescribed, done or taken by the Central Board of Direct Taxes, or as the case may be, by the Central Board of Excise and Customs and shall continue to be in force unless and until it is revised, withdrawn or superseded by the concerned Board.

4. Procedure of the Board.—(1) The Central Government may make rules for the purposes of regulating the transaction of business by each Board and every order made or act done in accordance with such rules shall be deemed to be the order or act, as the case may be, of the Board

(2) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any modification or annulment shall be without prejudice to the validity of anything previously done under that rule

5. Amendment of certain enactments.—(1) In the Estate Duty Act, 1953 (XXXIV of 1953), the Wealth-tax Act, 1957 (XXVII of 1957), the Expenditure-tax Act, 1957 (XXIX of 1957), the Gift-tax Act, 1958 (XVIII of 1958), the Income-tax Act, 1961 (XLIII of 1961), and the Super Profits Tax Act, 1963 (XIV of 1963), for the words and figures "Central Board of Revenue constituted under the Central Board of Revenue Act, 1924 (IV of 1924)', or "Central Board of Revenue", wherever they occur, the words and figures "Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963" shall be substituted

(2) In the Central Excises and Salt Act, 1944 (I of 1944), and the Customs Act, 1962 (LII of 1962), for the words and figures "Central Board of Revenue constituted under the Central Board of Revenue Act, 1924 (IV of 1924)", or "Central Board of Revenue", wherever they occur, the words and figures "Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963" shall be substituted

(3) The functions entrusted to the Central Board of Revenue by or under any other enactment shall,—

(*a*) if such functions relate to matters connected with direct taxes, be discharged by the Central Board of Direct Taxes, and

(*b*) if such functions relate to any other matter, unless they are entrusted by the Central Government to the Central Board of Direct Taxes, be discharged by the Central Board of Excise and Customs

6. Transfer of certain proceedings.—(1) Every proceeding pending at the commencement of this Act, before the Central Board of Revenue shall—

(*a*) if it is a proceeding relating to direct taxes, stand transferred to the Central Board of Direct Taxes, and

(*b*) in any other case, stand transferred to the Central Board of Excise and Customs

(2) If any question arises as to whether any proceeding stands transferred to the Central Board of Direct Taxes or to the Central Board of Excise and Customs, it shall be referred to the Central Government whose decision thereon shall be final

(3) In any legal proceeding pending at the commencement of this Act to which the Central Board of Revenue is a party,—

(*a*) if it is a proceeding relating to direct taxes, the Central Board of Direct Taxes shall be deemed to be substituted for the Central Board of Revenue in such proceeding, and

THE CENTRAL BOARD OF DIRECT TAXES (VALIDATION OF PROCEEDINGS) ACT, 1971

(ACT NO XXXVII OF 1971)

(Received the assent of the President on 14th August 1971)

An Act to provide for validation of certain proceedings in relation to direct taxes and for matters connected therewith

1. Short title.—This Act may be called the Central Board of Direct Taxes (Validation of Proceedings) Act, 1971

2. Validation of certain proceedings.—Notwithstanding any judgment, decree or order of any court, tribunal or any other authority, no approval, declaration, determination, recognition, direction, instruction, notification, order or rule, or other thing or action given, made, granted, issued, done or taken or purporting to have been given, made, granted, issued, done or taken by the Central Board of Direct Taxes, constituted under the Central Boards of Revenue Act, 1963 (LIV of 1963), in the exercise of the powers or the performance of the duties entrusted to it by the Central Government or by or under any law [not being the Estate Duty Act, 1953 (XXXIV of 1953)] shall be deemed to be invalid or ever to have been invalid by reason only of the fact that such approval, declaration, determination, recognition, direction, instruction, notification, order, rule, thing or action was given, made, granted, issued, done or taken by the Chairman and other members of the said Board either singly or jointly, without having been validly entrusted with the powers or duties in that behalf in accordance with the provisions of the aforesaid 1963 Act or the rules made thereunder, and accordingly

(*a*) all acts, proceedings or things done or taken in pursuance of such approval, declaration, determination, recognition, direction, instruction, notification, order, rule, thing or action shall, for all purposes, be deemed to be, and to have always been, done or taken in accordance with law, and

(*b*) no suit or other proceeding shall be instituted or continued against the Government or any person or authority whatsoever on the ground that any such act, proceeding or thing was not done or taken in accordance with law

THE CENTRAL BOARD OF DIRECT TAXES (REGULATION OF TRANSACTION OF BUSINESS) RULES, 1964

(*Notification No G S R 31, dated 1st January 1964*)

In exercise of the powers conferred by sub-section (1) of section 4 of the Central Boards of Revenue Act, 1963 (LIV of 1963), and in supersession of all previous rules on the subject, the Central Government hereby makes the following rules, namely —

1. These rules may be called the Central Board of Direct Taxes (Regulation of Transaction of Business) Rules, 1964

2. In these rules, unless the context otherwise requires—

(*a*) "Board" means the Central Board of Direct Taxes constituted under section 3 of the Act,

(*b*) "Chairman" means the Chairman of the Board,

(*c*) "Member" means a Member of the Board

3. The Central Government may, by notification in the Official Gazette, appoint one of the Members to be its Chairman

4. The Chairman may, by an order made with the previous approval of the Central Government, distribute the business of the Board among himself and the other Members and specify the cases or class of cases which shall be considered jointly by the Board

5. Every order or decision made or taken by the Board shall be authenticated by the signature of the Chairman or any Member or a Director or a Secretary or an Under Secretary of the Board, or of any other officer specifically empowered in this behalf by the Board

3. Tax authorities.—(1) Every Director of Inspection, Commissioner of Income-tax, [1][Additional Commissioner of Income-tax,] Appellate Assistant Commissioner of Income-tax, Inspecting Assistant Commissioner of Income-tax, [2][Income-tax Officer and Inspector of Income-tax] shall have the like powers and perform the like functions, under this Act as he has and performs under the Income-tax Act, and for the exercise of his powers and the performance of his functions, his jurisdiction under this Act will be the same as [3]* he has under the Income-tax Act

(2) All officers and persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Board

Provided that no such orders, instructions or directions shall be given so as to interfere with the discretion of the Appellate Assistant Commissioner in the exercise of his appellate functions

(3) Every Income-tax Officer, employed in the execution of this Act, shall observe and follow the orders, instructions and directions issued for his guidance by the Director of Inspection or by the Commissioner or by the Inspecting Assistant Commissioner under whose jurisdiction he performs his functions

4. Charge of tax.—Subject to the provisions contained in this Act, there shall be charged on every company for every assessment year commencing on and from the 1st day of April, 1964, a tax (in this Act referred to as the surtax) in respect of so much of its chargeable profits of the previous year or previous years, as the case may be, as exceed the statutory deduction, at the rate or rates specified in the Third Schedule

5. Return of chargeable profits.—(1) In the case of every company whose chargeable profits assessable under this Act exceeded during the previous year the amount of statutory deduction, its principal officer, or where in the case of a non-resident company any person has been treated as its agent under section 163 of the Income-tax Act, such person shall furnish a return of the chargeable profits of the company during the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed, before the 30th day of September of the assessment year

Provided that on an application made in this behalf, the Income-tax Officer may, in his discretion, extend the date for the furnishing of the return

(2) In the case of any company which in the Income-tax Officer's opinion is assessable under this Act, the Income-tax Officer may, before the end of the relevant assessment year, serve a notice upon its principal officer, or where in the case of a non-resident company any person has been treated as its agent under section 163 of the Income-tax Act, upon such person, requiring him to furnish within thirty days from the date of service of the notice a return of the chargeable profits of the company during the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed

Provided that on an application made in this behalf, the Income-tax Officer may, in his discretion, extend the date for the furnishing of the return

(3) Any assessee who has not furnished a return during the time allowed under sub-section (1) or sub-section (2), or having furnished a return under sub-section (1) or sub-section (2) discovers any omission or wrong statement therein, may furnish a return or a revised return, as the case may be, at any time before the assessment is made

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[1] Inserted by s 39, F Act, 1970, w e f 1-4-1970
[2] Substituted for "and Income-tax Officer" by s 36, F (No 2) Act, 1967, w e f 1-4-1967
[3] "That" omitted, *ibid*, w e f 1-4-1967

G

THE COMPANIES (PROFITS) SURTAX ACT, 1964

(ACT NO VII OF 1964)

(Received the assent of the President on 2nd May 1964)

An Act to impose a special tax on the profits of certain companies

1. Short title and extent.—(1) This Act may be called the Companies (Profits) Surtax Act, 1964

(2) It extends to the whole of India

2. Definitions.—In this Act, unless the context otherwise requires,—

(*1*) "assessee" means a person by whom surtax or any other sum of money is payable under this Act and includes every person in respect of whom any proceeding under this Act has been taken for the assessment of his chargeable profits or of the amount of refund due to him or of the chargeable profits of any other person in respect of which he is assessable or of the amount of refund due to such other person,

(*2*) "assessment" includes reassessment,

(*3*) "assessment year" means the period of twelve months commencing on the 1st day of April, every year,

(*4*) "Board" means the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963 (LIV of 1963),

(*5*) "chargeable profits" means the total income of an assessee computed under the Income-tax Act, 1961 (XLIII of 1961), for any previous year or years, as the case may be, and adjusted in accordance with the provisions of the First Schedule,

(*6*) "Income-tax Act" means the Income-tax Act, 1961 (XLIII of 1961),

(*7*) "prescribed" means prescribed by rules made under this Act,

(*8*) "statutory deduction" means an amount equal to ten per cent of the capital of the company as computed in accordance with the provisions of the Second Schedule, or an amount of two hundred thousand rupees, whichever is greater

Provided that where the previous year is longer or shorter than a period of twelve months, the aforesaid amount of ten per cent or, as the case may be, of two hundred thousand rupees shall be increased or decreased proportionately

Provided further that where a company has different previous years in respect of its income, profits and gains, the aforesaid increase or decrease, as the case may be, shall be calculated with reference to the length of the previous year of the longest duration, and

(*9*) all other words and expressions used herein but not defined and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act

section 22 for any year or to disclose fully and truly all material facts necessary for his assessment for that year, income, profits or gains chargeable to income-tax have escaped assessment for that year, or have been under-assessed, or assessed at too low a rate, or have been made the subject of excessive relief under the Act, or excessive loss or depreciation allowance has been computed, or

(b) notwithstanding that there has been no omission or failure as mentioned in clause (a) on the part of the assessee, the Income-tax Officer has in consequence of information in his possession reason to believe that income, profits or gains chargeable to income-tax have escaped assessment for any year, or have been under-assessed, or assessed at too low a rate, or have been made the subject of excessive relief under this Act, or that excessive loss or depreciation allowance has been computed,

he may in cases falling under clause (a) at any time [10]* * and in cases falling under clause (b) at any time within four years of the end of that year, serve on the assessee, or, if the assessee is a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 22 and may proceed to assess or reassess such income, profits or gains or recompute the loss or depreciation allowance, and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section

[11][Provided that the Income-tax Officer shall not issue a notice under clause (a) of sub-section (1)—

(i) for any year prior to the year ending on the 31st day of March, 1941,

(ii) for any year, if eight years have elapsed after the expiry of that year, unless the income, profits or gains chargeable to income-tax which have escaped assessment or have been under-assessed or assessed at too low a rate or have been made the subject of excessive relief under this Act, or the loss or depreciation allowance which has been computed in excess, amount to, or are likely to amount to, one lakh of rupees or more in the aggregate, either for that year, or for that year and any other year or years after which or after each of which eight years have elapsed, not being a year or years ending before the 31st day of March, 1941,

(iii) for any year, unless he has recorded his reasons for doing so, and, in any case falling under clause (ii), unless the Central Board of Revenue, and, in any other case, the Commissioner, is satisfied on such reasons recorded that it is a fit case for the issue of such notice

Provided further that the Income-tax Officer shall not issue a notice under this sub-section for any year, after the expiry of two years from that year, if the person on whom the assessment or reassessment is to be made in pursuance of the notice is a person deemed to be the agent of a non-resident person under section 43

Provided further that the tax shall be chargeable at the rate at which it would have been charged had the income, profits or gains not escaped assessment or full assessment, as the case may be]

Explanation —Production before the Income-tax Officer of account books or other evidence from which material facts could with due diligence have been discovered by the Income-tax Officer will not necessarily amount to disclosure within the meaning of this section

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[10] "Within eight years" omitted by s 18, F Act, 1956, w e f 1-4-1956
[11] Substituted for the original proviso, *ibid*, w e f 1-4-1956

6. Assessment.—(1) For the purposes of making an assessment under this Act, the Income-tax Officer may serve on any person who has furnished a return under sub-section (1) of section 5 or upon whom a notice has been served under sub-section (2) of section 5 (whether a return has been furnished or not) a notice requiring him on a date therein to be specified, to produce or cause to be produced such accounts or documents or evidence as the Income-tax Officer may require for the purposes of this Act and may from time to time serve further notices requiring the production of such further accounts or documents or other evidence as he may require

(2) The Income-tax Officer, after considering such accounts, documents, or evidence, if any, as he has obtained under sub-section (1) and after taking into account any relevant material which he has gathered, shall, by an order in writing, assess the chargeable profits and the amount of the surtax payable on the basis of such assessment

7. Provisional assessment.—(1) The Income-tax Officer, before proceeding to make an assessment under section 6 (in this section referred to as the regular assessment) may, at any time after the expiry of the period allowed under sub-section (1) or sub-section (2) of section 5 for the furnishing of the return and whether the return has or has not been furnished, proceed to make in a summary manner a provisional assessment of the chargeable profits and the amount of the surtax payable thereon

(2) Before making such provisional assessment, the Income-tax Officer shall give notice in the prescribed form to the person on whom the provisional assessment is to be made of his intention to do so, and shall with the notice forward a statement of the amount of the proposed assessment, and the said person shall be entitled to deliver to the Income-tax Officer at any time within fourteen days of the service of the said notice a statement of his objections, if any, to the amount of the proposed assessment

(3) On expiry of the said fourteen days from the date of service of the notice referred to in sub-section (2), or earlier, if the assessee agrees to the proposed provisional assessment, the Income-tax Officer may, after taking into account the objections, if any, made under sub-section (2), make a provisional assessment, and shall furnish a copy of the order of the assessment to the assessee

Provided that assent to the amount of the provisional assessment, or failure to make objection to it, shall in no way prejudice the assessee in relation to the regular assessment

(4) There shall be no right of appeal against a provisional assessment made under this section

(5) After a regular assessment has been made, any amount paid or deemed to have been paid towards the provisional assessment made under this section shall be deemed to have been paid towards the regular assessment, and where the amount paid or deemed to have been paid towards the provisional assessment exceeds the amount payable under the regular assessment, the excess shall be refunded to the assessee

8. Profits escaping assessment.—If—

(*a*) the Income-tax Officer has reason to believe that by reason of the omission or failure on the part of the assessee to make a return under section 5 for any assessment year or to disclose fully and truly all material facts necessary for his assessment for any assessment year, chargeable profits for that year have escaped assessment or have been under-assessed or assessed at too low a rate or have been made the subject of excessive relief under this Act, or

(*b*) notwithstanding that there has been no omission or failure as mentioned in clause (*a*) on the part of the assessee, the Income-tax Officer has in

consequence of information in his possession reason to believe that chargeable profits assessable for any assessment year have escaped assessment or have been under-assessed or assessed at too low a rate or have been the subject of excessive relief under this Act,

he may, in cases falling under clause (*a*) at any time, and in cases falling under clause (*b*) at any time within four years of the end of that assessment year, serve on the assessee a notice containing all or any of the requirements which may be included in a notice under section 5, and may proceed to assess or reassess the amount chargeable to surtax, and the provisions of this Act shall, so far as may be, apply as if the notice were a notice issued under that section

9. Penalties.—If the Income-tax Officer, in the course of any proceedings under this Act, is satisfied that any person has, without reasonable cause, failed to furnish the return required under section 5, or to produce or cause to be produced the accounts, documents or other evidence required by the Income-tax Officer under sub-section (1) of section 6, or has concealed the particulars of the chargeable profits or has furnished inaccurate particulars of such profits, he may direct that such person shall pay, by way of penalty, in addition to the amount of surtax payable, a sum not exceeding—

(*a*) where the person has failed to furnish the return required under section 5, the amount of surtax [4][chargeable under the provisions of this Act],

(*b*) in any other case, the amount of surtax which would have been avoided if the return made had been accepted as correct

Provided that the Income-tax Officer shall not impose any penalty under this section without the previous authority of the Inspecting Assistant Commissioner.

10. Opportunity of being heard.—No order imposing a penalty under section 9 shall be made unless the assessee has been given a reasonable opportunity of being heard

11. Appeals to the Appellate Assistant Commissioner.—(1) Any person objecting to the amount of surtax for which he is liable as assessed by the Income-tax Officer or denying his liability to be assessed under this Act, or objecting to any penalty or fine imposed by the Income-tax Officer, or to the amount allowed by the Income-tax Officer by way of any relief under any provisions of this Act, or to any refusal by the Income-tax Officer to grant relief or to an order of rectification or amendment having the effect of enhancing the assessment or reducing the refund, or to an order refusing to allow the claim made by the assessee for a rectification under section 13 or amendment under section 14 may appeal to the Appellate Assistant Commissioner

(2) Every appeal shall be in the prescribed form and shall be verified in the prescribed manner

(3) An appeal shall be presented within thirty days of the following date, that is to say—

(*a*) where the appeal relates to assessment or penalty or fine, the date of service of the notice of demand relating to the assessment or penalty or fine, or

(*b*) in any other case, the date on which the intimation of the order sought to be appealed against is served.

Provided that the Appellate Assistant Commissioner may admit an appeal after the expiration of the said period if he is satisfied that the appellant had sufficient cause for not presenting it within that period

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[4] Substituted for "payable" by s 20, Direct Taxes (Amendment) Act, 1974, with retrospective effect from the commencement of the Surtax Act

(4) The Appellate Assistant Commissioner shall hear and determine the appeal and, subject to the provisions of this Act, pass such orders as he thinks fit and such orders may include an order enhancing the assessment or penalty

Provided that an order enhancing the assessment or penalty shall not be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement

(5) The procedure to be adopted in the hearing and determination of the appeals shall, with any necessary modification, be in accordance with the procedure applicable in relation to income-tax

12. Appeals to Appellate Tribunal.—(1) Any assessee aggrieved by an order passed by a Commissioner under section 16, or an order passed by an Appellate Assistant Commissioner under any provision of this Act, may appeal to the Appellate Tribunal against such order

(2) The Commissioner may, if he objects to any order passed by the Appellate Assistant Commissioner under any provision of this Act, direct the Income-tax Officer to appeal to the Appellate Tribunal against the order.

(3) Every appeal under sub-section (1) or sub-section (2) shall be filed within sixty days of the date on which the order sought to be appealed against is communicated to the assessee or to the Commissioner, as the case may be

(4) The Income-tax Officer or the assessee, as the case may be, on receipt of notice that an appeal against the order of the Appellate Assistant Commissioner has been preferred under sub-section (1) or sub-section (2) by the other party may, notwithstanding that he may not have appealed against such order or any part thereof, within thirty days of the receipt of the notice, file a memorandum of cross-objections, verified in the prescribed manner, against any part of the order of the Appellate Assistant Commissioner, and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (3).

(5) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (3) or sub-section (4), if it is satisfied that there was sufficient cause for not presenting it within that period

(6) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, except in the case of an appeal referred to in sub-section (2) or a memorandum of cross-objections referred to in sub-section (4), be accompanied by a fee of [5][one hundred and twenty-five] rupees

(7) Subject to the provisions of this Act, in hearing and making an order on any appeal under this section, the Appellate Tribunal shall exercise the same powers and follow the same procedure as it exercises and follows in hearing and making an order on any appeal under the Income-tax Act

13. Rectification of mistakes.—(1) With a view to rectifying any mistake apparent from the record, the Commissioner, the Income-tax Officer, the Appellate Assistant Commissioner and the Appellate Tribunal may, of his or its own motion or on an application by the assessee in this behalf, amend any order passed by him or it in any proceeding under this Act within four years of the date on which such order was passed

[5] Substituted for "one hundred" by s 72, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

(2) An amendment which has the effect of enhancing the assessment or reducing a refund or otherwise increasing the liability of the assessee shall not be made under this section unless the authority concerned has given notice to the assessee of its intention so to do and has allowed the assessee a reasonable opportunity of being heard

(3) Where an amendment is made under this section, the order shall be passed in writing by the authority concerned

(4) Subject to the other provisions of this Act, where any such amendment has the effect of reducing the assessment, the Income-tax Officer shall make any refund which may be due to such assessee

(5) Where any such amendment has the effect of enhancing the assessment or reducing the refund already made, the Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable

14. Other amendments.—Where as a result of any order made under [6][section 154, 155, 250, 254, 260, 262, 263 or 264] of the Income-tax Act, it is necessary to recompute the chargeable profits determined in any assessment under this Act, the Income-tax Officer may proceed to recompute the chargeable profits, and determine the surtax payable or refundable on the basis of such recomputation and make the necessary amendment and the provisions of section 13 shall, so far as may be, apply thereto, the period of four years specified in sub-section (1) of that section being reckoned from the date of the order passed under the aforesaid sections of the Income-tax Act

15. Surtax deductible in computing distributable income under Income-tax Act.—Notwithstanding anything contained in clause (*i*) of section 109 of the Income-tax Act, in computing the distributable income of a company for the purposes of Chapter XI-D of that Act, the surtax payable by the company for any assessment year shall be deductible from the total income of the company assessable for that assessment year.

16. Revision of orders prejudicial to revenue.—(1) The Commissioner may call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by the Income-tax Officer is erroneous in so far as it is prejudicial to the interests of the revenue, he may, after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment, or cancelling the assessment and directing a fresh assessment

(2) No order shall be made under sub-section (1)—

(*a*) to revise an order of reassessment made under section 8, or

(*b*) after the expiry of two years from the date of the order sought to be revised

(3) Notwithstanding anything contained in sub-section (2), an order in revision under this section may be passed at any time in the case of an order which has been passed in consequence of, or to give effect to, any finding or direction contained in an order of the Appellate Tribunal, the High Court or the Supreme Court

Explanation—In computing the period of limitation for the purposes of sub-section (2), any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded

[6] Substituted for "section 154 or section 155" by s 73, Taxation Laws (Amendment) Act, 1970, w e f, 1-4-1971

17. Revision of orders by Commissioner.—(1) The Commissioner may either of his own motion or on an application by the assessee for revision, call for the record of any proceeding under this Act which has been taken by an Income-tax Officer or Appellate Assistant Commissioner subordinate to him and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may pass such order thereon, not being an order prejudicial to the assessee, as he thinks fit

(2) The Commissioner shall not of his own motion revise any order under this section if the order has been made more than one year previously

(3) In the case of an application for revision under this section by the assessee, the application shall be made within one year from the date on which the order in question was communicated to him or the date on which he otherwise came to know of it, whichever is earlier

Provided that the Commissioner may, if he is satisfied that the assessee was prevented by sufficient cause from making the application within that period, admit an application made after the expiry of that period

(4) The Commissioner shall not revise any order under this section in the following cases—

(*a*) where an appeal against the order lies to the Appellate Assistant Commissioner or to the Appellate Tribunal but has not been made and the time within which such appeal may be made has not expired, or, in the case of an appeal to the Appellate Tribunal, the assessee has not waived his right of appeal, or

(*b*) where the order is pending on an appeal before the Appellate Assistant Commissioner, or

(*c*) where the order has been made the subject of an appeal to the Appellate Tribunal

(5) Every application by an assessee for revision under this section shall be accompanied by a fee of twenty-five rupees.

Explanation 1—An order by the Commissioner declining to interfere shall, for the purposes of this section, be deemed not to be an order prejudicial to the assessee.

Explanation 2—For the purposes of this section, the Appellate Assistant Commissioner shall be deemed to be an authority subordinate to the Commissioner

18. Application of provisions of Income-tax Act.—The provisions of the following sections and Schedules of the Income-tax Act and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, shall apply with such modifications, if any, as may be prescribed, as if the said provisions and the rules referred to surtax instead of to income-tax [7]* * —

[8][2(*43B*) and (*44*)], [9][118, 125, [10][125A,] 129, 130, 130A, 131, 132, 132A, [10][132B,] 133 to 136 (both inclusive)], 138, 140, 156, 160, 161, 162, 163, 166, 167, 170, 173, 175, 176, 178, 179, 220 to 229 (both inclusive), 231, 232, 233, 237 to 242 (both inclusive), 244, 245, 254 to 262 (both inclusive), 265, 266, 268, 269, 281, [10][281B,] 282, 284, [11][287,

[7] "And super-tax" omitted by s 74, F Act, 1965, w e f 1-4-1965
[8] Substituted for "2(*44*)" by s 38, F (No 2) Act, 1971, w e f 1-1-1972
[9] Substituted for "131 to 136 (both inclusive)" by s 36, F (No 2) Act, 1967, w e f 1-4-1967
[10] Inserted by s 124, Taxation Laws (Amendment) Act, 1975, w e f 1-10-1975
[11] Substituted for "287 to 293 (both inclusive)" by s 36, F (No 2) Act, 1967, w e f 1-4-1967

books of account or other documents specified in the relevant summons or notice and he has omitted or failed to produce, or cause to be produced, such books of account or other documents as required by such summons or notice,

a summons under sub-section (1) of section 131 of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964, or a notice under sub-section (1) of section 6 of the Companies (Profits) Surtax Act, 1964, has been issued by the Inspecting Assistant Commissioner/the Income-tax Officer, to (name of the person) on (date) to produce, or cause to be produced, books of account or other documents specified in the relevant summons or notice and that he will not produce, or cause to be produced, such books of account or other documents as required by such summons or notice,

if a summons under sub-section (1) of section 131 of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964, or a notice under sub-section (1) of section 6 of the Companies (Profits) Surtax Act, 1964, is issued to (name of the person) to produce, or cause to be produced, books of account or other documents which will be useful for, or relevant to, proceedings under the Companies (Profits) Surtax Act, 1964, for the assessment year/years commencing on , he would not produce, or cause to be produced, such books of account or other documents as required by such summons or notice,

(name of the company) is in possession of any money, bullion, jewellery or other valuable article or thing and such money, bullion, jewellery or other valuable article or thing represents either wholly or partly the chargeable profits or property which have or has not been, or would not be, disclosed for the purposes of the Companies (Profits) Surtax Act, 1964,

And whereas I have reason to suspect that such books of account, other documents, money, bullion, jewellery or other valuable article or thing have been kept and are to be found in . (specify particulars of the building/place/vessel/vehicle/aircraft),

This is to authorise and require you . (name of the Deputy Director of Inspection or of the Inspecting Assistant Commissioner of Income-tax or of the Assistant Director of Inspection or the Income-tax Officer)—

(*a*) to enter and search the said building/place/vessel/vehicle/aircraft,

(*b*) to search any person who has got out of, or is about to get into, or is in, the building/place/vessel/vehicle/aircraft, if you have reason to suspect that such person has secreted about his person any such books of account, other documents, money, bullion, jewellery or other valuable article or thing,

(*c*) to place identification marks on such books of account and documents as may be found in the course of search and as you may consider relevant to or useful for the proceedings aforesaid and to make a list thereof together with particulars of the identification marks,

(*d*) to examine such books of account and documents and make, or cause to be made, copies or extracts from such books of account and documents,

(*e*) to seize any such books of account, documents, money, bullion, jewellery or other valuable article or thing found as a result of such search and take possession thereof,

(*f*) to make a note or an inventory of any such money, bullion, jewellery or other valuable article or thing,

Explanation—For the purposes of sub-section (6), where the assessee is a firm, the provisions of sub-section (5) shall also apply as they apply to the rectification of the assessment of the partners of the firm

(7) Where the assessment of a company in whose case an order under section 23A has been made is modified in appeal, revision or any other proceeding or the order under section 23A is cancelled, or varied, and in consequence thereof it is necessary to recompute the total income of the shareholders, such recomputation shall be deemed to be a rectification of a mistake apparent from the record within the meaning of this section, and the provisions of sub-section (1) shall apply thereto accordingly, the period of four years referred to in that sub-section being computed from the date of the final order passed in the case of the company]

[11][(8) Where, as a result of proceedings initiated under clause (*a*) of sub-section (1) or under sub-section (1A) of section 34,—

(*a*) a firm or an association of persons is assessed or reassessed, or

(*b*) a company is assessed or reassessed and in respect thereof an order under section 23A is subsequently made,

and the Income-tax Officer concerned is of opinion that it is necessary to compute or recompute the total income of a partner in the firm or a member of the association of persons or a shareholder in the company, as the case may be, the Income-tax Officer may proceed to compute or recompute the total income and determine the sum payable on the basis of such computation or recomputation as if the computation or recomputation is a rectification of a mistake apparent from the record within the meaning of this section, and the provisions of sub-section (1) shall apply accordingly, the period of four years specified therein being reckoned from the date of the final order passed in the case of the firm, association or company, as the case may be

(9) Where the Income-tax Officer is satisfied that the income-tax payable by a company on its profits and gains out of which the company has declared a dividend, has not been paid within three years after the financial year in which the dividend was declared, the amount of income-tax which a shareholder of the company is deemed himself to have paid in respect of such dividend under section 49B, or the amount for which credit is due to him under sub-section (5) of section 18 in respect of such dividend, shall be deemed to have been wrongly computed, and the Income-tax Officer may, notwithstanding anything contained in this Act, proceed to recompute such amount by reducing it in the same proportion as the amount of income-tax remaining unpaid by the company bears to the amount of income-tax payable by it on such profits and gains, as if the recomputation is a rectification of a mistake apparent from the record within the meaning of this section, and the provisions of sub-section (1) shall apply accordingly, the period of four years specified therein being reckoned from the date on which the period of three years aforesaid has expired

[12][Provided that this sub-section shall not apply in relation to dividends payable by a company in respect of any previous year relevant to any assessment year commencing on or after the 1st day of April, 1960]

(10) [12]* * * * *]

[13][(11) Where an allowance by way of development rebate has been made wholly or partly to an assessee in respect of a ship, machinery or plant in any year of assessment under clause (*vi-b*) of sub-section (2) of section 10, and subsequently at any time before

[11] Sub-ss (8), (9) and (10) substituted for sub-s (8) by s 19, F Act, 1956, w e f 1-4-1956
[12] The proviso inserted, and sub-s (10) omitted, by s 13, F Act, 1959, w e f 1-4-1960
[13] Inserted by s 10, F Act, 1958, w e f 1-4-1958

. (date) to produce, or cause to be produced, books of account or other documents specified in the relevant summons or notice and he will not produce or cause to be produced such books of account or other documents as required by such summons or notice,

if a summons under sub-section (1) of section 131 of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964, or a notice under sub-section (1) of section 6 of the Companies (Profits) Surtax Act, 1964, is issued to (name of the person) to produce, or cause to be produced, books of account or other documents which will be useful for, or relevant to, proceedings under the Companies (Profits) Surtax Act, 1964, he would not produce, or cause to be produced, such books of account or other documents as required by such summons or notice,

(name of the company) is in possession of any money, bullion, jewellery or other valuable article or thing and such money, bullion, jewellery or other valuable article or thing represents either wholly or partly income or property which has not been or would not be disclosed for the purposes of the Companies (Profits) Surtax Act, 1964,

And whereas I have reason to suspect that such books of account, other documents, money, bullion, jewellery or other valuable article or thing have been kept and are to be found in . (specify particulars of the building, place, vessel, vehicle or aircraft), which is within the area of my jurisdiction,

And whereas I have reason to believe that any delay in getting an authorisation under sub-section (1) of section 132, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964, from the Commissioner having jurisdiction over . (name of the company) may be prejudicial to the interests of the revenue,

This is to authorise and require you (name of the Deputy Director of Inspection or of the Inspecting Assistant Commissioner of Income-tax or of the Assistant Director of Inspection or the Income-tax Officer)—

(*a*) to enter and search the said building, place, vessel, vehicle or aircraft,

(*b*) to search any person who has got out of, or is about to get into, or is in, the building/place/vessel/vehicle/aircraft, if you have reason to suspect that such person has secreted about his person any such books of account, other documents, money, bullion, jewellery or other valuable article or thing,

(*c*) to place identification marks on such books of account and documents as may be found in the course of the search and as you may consider relevant to or useful for the proceedings aforesaid and to make a list thereof together with particulars of the identification marks,

(*d*) to examine such books of account and documents and make, or cause to be made, copies or extracts from such books of account and documents,

(*e*) to seize any such books of account, documents, money, bullion, jewellery or other valuable article or thing found as a result of such search and take possession thereof,

(*f*) to make a note or an inventory of any such money, bullion, jewellery or other valuable article or thing,

(*g*) to convey such books of account, documents, money, bullion, jewellery or other valuable article or thing to the office of the Inspecting Assistant Commissioner of Income-tax or any other authority not below the rank of the

Income-tax Officer employed in the execution of the Income-tax Act, 1961; and

(*h*) to exercise all other powers and perform all other functions under section 132 of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964, and the rules relating thereto

You may requisition the services of any police officer or any officer of the Central Government, or of both, to assist you for all or any of the purposes specified in sub-section (1) of section 132 of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964

Commissioner of Income-tax

(SEAL)

FORM No. 6B

SURTAX

[See rule 11]

Warrant of authorisation under sub-section (1A) of section 132 of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964

To

The Deputy Director of Inspection,
The Inspecting Assistant Commissioner of Income-tax,
The Assistant Director of Inspection,
The Income-tax Officer,

Whereas information has been laid before me and on the consideration thereof, I have reason to suspect that the books of account, other documents, money, bullion, jewellery or other valuable article or thing in respect of which . (name and designation of authorised officer) has been authorised by the Director of Inspection/Commissioner of Income-tax/Deputy Director of Inspection/Inspecting Assistant Commissioner of Income-tax, . . . to take action under clauses (*i*) to (*v*) of sub-section (1) of section 132, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964, are or is kept in . (specify particulars of the building/place/vessel/vehicle/aircraft),

And whereas the building/place/vessel/vehicle/aircraft specified above has/have not been mentioned in the authorisation under sub-section (1) of section 132, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964, by the Director of Inspection/Commissioner of Income-tax/Deputy Director of Inspection/Inspecting Assistant Commissioner of Income-tax,

This is to authorise and require you (name of the Deputy Director of Inspection or the Inspecting Assistant Commissioner of Income-tax or the Assistant Director of Inspection or the Income-tax Officer)—

(*a*) to enter and search the said building/place/vessel/vehicle/aircraft,

(*b*) to search any person who has got out of, or is about to get into, or is in, the building/place/vessel/vehicle/aircraft, if you have reason to suspect that such

person has secreted about his person any such books of account, other documents, money, bullion, jewellery or other valuable article or thing,

(*c*) to place identification marks on such books of account and documents as may be found in the course of search and as you may consider relevant to or useful for proceedings under the Companies (Profits) Surtax Act, 1964, and to make a list thereof together with particulars of the identification marks,

(*d*) to examine such books of account and documents and make, or cause to be made, copies or extracts from such books of account and documents,

(*e*) to seize any such books of account, documents, money, bullion, jewellery or other valuable article or thing found as a result of such search and take possession thereof,

(*f*) to make a note or an inventory of any such money, bullion, jewellery or other valuable article or thing,

(*g*) to convey such books of account, documents, money, bullion, jewellery or other valuable article or thing to the office of the Inspecting Assistant Commissioner of Income-tax or any other authority not below the rank of the Income-tax Officer employed in the execution of the Income-tax Act, 1961; and

(*h*) to exercise all other powers and perform all other functions under section 132 of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964, and the rules relating thereto.

You may requisition the services of any police officer or any officer of the Central Government, or of both, to assist you for all or any of the purposes specified in sub-section (1) of section 132 of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964

Commissioner of Income-tax

(SEAL)

FORM No 6C

SURTAX

[See rule 11A(1)]

Warrant of authorisation under sub-section (1) of section 132A of the Income-tax Act, 1961, applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964

To

The Deputy Director of Inspection,
The Inspecting Assistant Commissioner of Income-tax,
The Assistant Director of Inspection,
The Income-tax Officer,

Whereas information has been laid before me and on the consideration thereof, I have reason to believe that—

a summons under sub-section (1) of section 131 of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964, or a notice under sub-section (1) of section 6 of the Companies (Profits) Surtax Act, 1964,

was issued by the Inspecting Assistant Commissioner of Income-tax/ Income-tax Officer, .. . to (name of the person) to produce, or cause to be produced, books of account or other documents specified in the relevant summons or notice and he has omitted or failed to produce, or cause to be produced, such books of account or other documents as required by such summons or notice, and the said books of account or other documents have been taken into custody by (name and designation of the officer or authority),

certain books of account or other documents which will be useful for, or relevant to, proceedings under the Companies (Profits) Surtax Act, 1964, have been taken into custody by . . (name and designation of the officer or authority) and (name of the company) to which a summons under sub-section (1) of section 131 of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964, or a notice under sub-section (1) of section 6 of the Companies (Profits) Surtax Act, 1964, has been or might be issued by the Inspecting Assistant Commissioner of Income-tax/Income-tax Officer, will not, or would not, produce, or cause to be produced, such books of account or other documents on their return by the said officer/authority,

the assets taken into custody by .. (name and designation of the officer or authority) represent either wholly or partly chargeable profits or property which have or has not been, or would not have been, disclosed for the purposes of the Companies (Profits) Surtax Act, 1964, by . (name of the person) from whose possession or control such assets have been taken into custody by the officer/ authority aforesaid,

This is to authorise you . (name of the Deputy Director of Inspection or the Inspecting Assistant Commissioner of Income-tax or the Assistant Director of Inspection or the Income-tax Officer) to require the said officer or authority to deliver to you the books of account, other documents or assets as aforesaid

Director of Inspection
Commissioner of Income-tax

(SEAL)

FORM No. 7

SURTAX

[See rule 12(1)]

Application for information under sub-section (1) of section 138 of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964

To

The Commissioner of Income-tax,
..

Sir,

I request you to furnish information relating to (here give name and complete address of the

company) in respect of the assessment year commencing on the 1st day of April, 19. ., on the following points·

1. . . .
2. . . ..
3 . .. .
4 . . .
etc

2. The above information is required by me for the following reasons:—

1 . .
2 . . .
etc

Signature of the applicant
Name of the applicant
(in capital letters)
Father's/Husband's name
Full address

Dated *19*

NOTE—A separate application has to be made in respect of each assessee and for each assessment year

FORM No. 8

SURTAX

[See rule 12(2)]

Form for furnishing information under sub-section (1) of section 138 of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964

Office of the . . .

Date . 19

No.

To

.

. .

With reference to your application dated . under sub-section (1) of section 138 of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964, requesting for information relating to ... .. in respect of the assessment year commencing on the 1st day of April, 19. . , the said information/information respecting items Nos . . ..of the said application is given below —

Name and address of the company

Assessment year

1. . . . .. .
2 . . .
3. . .. .
4 .
5.
etc.

2 I/Commissioner of Income-tax, am/is satisfied that it is not in the public interest to furnish information respecting items Nos . of your application and the information relating thereto is accordingly refused

(SEAL) *Signature of the authority furnishing information*

NOTE—Delete inappropriate words

FORM No. 9

SURTAX

[See rule 12(3)]

Form for intimating non-availability of information under sub-section (1) of section 138 of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964

Office of the .

Date 19 .

No

To

With reference to your application dated under sub-section (1) of section 138 of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964, requesting for information relating to in respect of the assessment year commencing on the 1st day of April, 19 , I am to inform you that *the said information is not yet available/no assessment for the aforesaid assessment year has been made in the case of the aforesaid company

(SEAL) *Signature*

*Delete inappropriate words

FORM No 10

SURTAX

[See rule 12(4)]

Refusal to supply information under sub-section (1) of section 138 of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964

Office of the .

Date .. 19. . .

No .

To

With reference to your application dated . under sub-section (1) of section 138 of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964, requesting for information relating to . .. . in respect of the assessment year commencing

on the 1st day of April, 19 . ., I am to say that I am satisfied that it will not be in the public interest to furnish the information asked for and I therefore decline to furnish the same

(SEAL) *Signature*

FORM No. 11

SURTAX

[See rule 13(1)]

Notice of demand under section 156 of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964

S T G I R No .

To

.

.

This is to give you notice that for the assessment year a sum of Rs details of which are given on the reverse has been determined to be payable by you

2 The amount should be paid to the Treasury Officer/Sub-Treasury Officer/ Agent, State Bank of India/Reserve Bank of India at.. . . . within 35 days/ . . . days of the service of this notice The previous approval of the Inspecting Assistant Commissioner of Income-tax has been obtained for allowing a period of less than 35 days for the payment of the above sum A chalan is enclosed for the purpose of payment

3 If you do not pay the amount on or before the period specified above, you shall be liable to pay simple interest at twelve per cent per annum from the date commencing after the end of the period aforesaid in accordance with section 220(2) of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964

4 If you do not pay the amount of tax within the period specified above, penalty (which may be as great as the amount of tax in arrear) may be imposed upon you after giving you a reasonable opportunity of being heard in accordance with section 221 of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964

5 If you do not pay the amount within the period specified above, proceedings for the recovery thereof will be taken in accordance with sections 222 to 229, 231 and 232 and the Second Schedule and the Third Schedule of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964

6 If you intend to appeal against the assessment/fine/penalty you may present an appeal under section 11 of the Companies (Profits) Surtax Act, 1964, to the Appellate Assistant Commissioner of Income-tax .. . within thirty days of the receipt of this notice in the form prescribed under section 11(2) of the said Act duly stamped and verified as laid down in that form

Dated *Income-tax Officer*

Place *Address*

NOTES—(1) If you wish to pay the amount by cheque, the cheque should be drawn in favour of the Treasury Officer/Sub-Treasury Officer/Agent, State Bank of India/Reserve Bank of India

(2) Delete inappropriate paragraphs and words

FORM No. 12

SURTAX

[See rule 13(1)]

Assessment form

Serial No
S.T G I.R No . .

Name. .
Address .
Resident/Non-resident

Assessment year . . ..
Section under which assessment or refund is made . ..
District or Circle , ..
State . .
Public Limited/
Private Limited Company

	Rs
A (1) Amount of chargeable profits	
(2) Amount of statutory deduction	
(3) Net chargeable profits [i e, the amount by which the chargeable profits in entry (1) exceed the statutroy deduction in entry (2)]	
B (1) Gross surtax chargeable	
(2) Amount of rebate admissible under the first proviso to paragraph 1 of the Third Schedule to the Companies (Profits) Surtax Act, 1964	
(3) Surtax chargeable [(1)—(2)]	
Adjustments to arrive at tax payable by the assessee C Surtax paid on provisional assessment	
D Surtax payable/refundable	
E Surtax payable/refundable as per item D of assessment form of original assessment made on (date) (This is to be filled in in the case of reassessment, revision, rectification, appeal, etc)	
F (1) Additional amount of surtax payable/amount of reduction in surtax on reassessment/revision/rectification/appeal, etc	
(2) Penalty under section	
(3) Composition under section 23	
(4) Interest payable by assessee under section 220 of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964	
(5) Interest payable to assessee under section 244 of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964	
Total sum payable/refundable (in figures)	
In words—Rupees and paise	

Date *Income-tax Officer*

FORM No 13

SURTAX

[See rule 13(2)]

Notice of demand under section 156 of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964, for payment of surtax provisionally assessed under section 7 of the latter Act

To

S.T G I R. No

Please take notice that for the assessment year . the sum of Rs has been determined to be payable by you under section 7 of the Companies (Profits) Surtax Act, 1964.

2 The amount should be paid to the Treasury Officer / Sub-Treasury Officer / Agent, State Bank of India / Reserve Bank of India

at within $\frac{\text{35 days}}{\text{days}}$ of the service of this notice

The previous approval of the Inspecting Assistant Commissioner of Income-tax has been obtained for allowing a period of less than 35 days for the payment of the above sum. A chalan is enclosed for the purpose of payment

3. If you do not pay the amount on or before the period specified above, you shall be liable to pay simple interest at *four per cent per annum from the date commencing after the end of the period aforesaid in accordance with section 220(2) of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964

4. Further, if you do not pay the amount within the period specified above, penalty (which may be as great as the amount of tax in arrear) may be imposed upon you after giving you a reasonable opportunity of being heard in accordance with section 221 of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964

5 If you do not pay the amount within the period specified above, proceedings for the recovery thereof will be taken in accordance with sections 222 to 229 and 231 to 233 and the Second Schedule and the Third Schedule of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964.

Dated *19* *Income-tax Officer*

Place (*Address*)

*The present rate of interest is twelve per cent

NOTES —(1) If you wish to pay the amount by cheque, the cheque should be drawn in favour of the Treasury Officer/Sub-Treasury Officer/Agent, State Bank of India/Reserve Bank of India

(2) Delete the inappropriate words

FORM No 14

SURTAX

[See rule 15]

Claim for refund of surtax

I, .. . , Principal Officer/Agent* of . . (name of the company) do hereby state that the chargeable profits of and the statutory deduction admissible to. ... (name of the company) computed in accordance with the provisions of the Companies (Profits) Surtax Act, 1964, during the year ending on . .. being the previous year for the assessment year commencing on the 1st day of April, 19 . , amounted to Rs . . .and Rs respectively, that the surtax chargeable in respect of such chargeable profits is Rs and that the total amount of surtax paid is Rs .. .

I, therefore, request for a refund of Rs . .

Dated *Signature*

I hereby declare that the abovenamed company was $\frac{\text{resident}}{\text{non-resident}}$ during the previous year(s) relevant to the assessment year to which this claim relates and that what is stated in this application is correct.

Dated *Signature*

---

*(1) Delete the inappropriate word(s)
(2) The term "agent" means a person who has been treated as an agent of a non-resident company under section 163 of the Income-tax Act, 1961

FORM No. 15

SURTAX

[See rule 16]

Reference application under section 256(1) of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964

In the Income-tax Appellate Tribunal . . .

In the matter of the assessment of . (name of the assessee)
R A No of . 19 . (to be filled in by the Office)

. . . *Versus* . .
Applicant Respondent

State from which the application is filed . . -

Name and number of the appeal which gives rise to the reference... .

The applicant states as follows —

(1) that the appeal noted above was decided by the. .. Bench of the Tribunal on . . . . ,

(2) that notice of the order under sub-section (1) of section 254 of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964, was served on the applicant on. . ,

the expiry of ten years from the end of the year in which the ship was acquired or the machinery or plant was installed—

(i) the ship, machinery or plant is sold or otherwise transferred by the assessee to any person other than the Government [14][or for any consideration not connected with any amalgamation or succession referred to in clause (*vi-c*) of sub-section (2) of section 10], or

(ii) the assessee utilises the amount credited to the reserve account under that clause—

(*a*) for distribution by way of dividends or profits, or

(*b*) for remittance outside India as profits or for the creation of any asset outside India, or

(*c*) for any other purpose which is not a purpose of the business of the undertaking,

the development rebate originally allowed shall be deemed to have been wrongly allowed, and the Income-tax Officer may, notwithstanding anything contained in this Act, proceed to recompute the total income of the assessee for the relevant year as if the recomputation is a rectification of a mistake apparent from the record within the meaning of this section, and the provisions of sub-section (1) shall apply accordingly, the period of four years specified therein being reckoned from the end of the year in which the transfer takes place or the money is so utilised.

[14][*Explanation* —For the purposes of this sub-section, a successor referred to in sub-clause (i) or sub-clause (ii) of clause (*vi-c*) of sub-section (2) of section 10 shall be deemed to be the assessee even in respect of an allowance by way of development rebate made to the predecessor, and any tax resulting from the recomputation of the total income for any previous year of the predecessor shall be payable by the successor]]

36. Tax to be calculated to nearest anna.—*Omitted by s. 3 of the Finance Act, 1957*

[15][**37. Powers of Income-tax authorities.**—(1) The Income-tax Officer, Appellate Assistant Commissioner, Commissioner and Appellate Tribunal shall, for the purposes of this Act, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 (V of 1908), when trying a suit in respect of the following matters, namely —

(*a*) discovery and inspection,

(*b*) enforcing the attendance of any person, including any officer of a banking company, and examining him on oath,

(*c*) compelling the production of books of account and other documents, and

(*d*) issuing commissions

(2) Subject to any rules made in this behalf, any Income-tax Officer specially authorised by the Commissioner in this behalf may,—

(i) enter and search any building or place where he has reason to believe that any books of account or other documents which in his opinion will be useful for, or relevant to, any proceeding under this Act may be found and examine them, if found,

(ii) seize any such books of account or other documents or place marks of identification thereon or make extracts or copies therefrom,

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[14] Inserted by s 9, F Act, 1961, w e f 1-4-1961
[15] Substituted by s 20, F Act, 1956, w e f 1-4-1956

Institutions	Assessment year commencing on	Notifications
5. The Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956)	1-4-1964	S O. 3497, 28- 9-1968
6. The Tamil Nadu Industrial Development Corporation Limited, Madras	1-4-1971	S O. 1260, 18- 3-1971
7. The Rural Electrification Corporation Limited, New Delhi	1-4-1970	S.O 3253, 31- 8-1971
8. The National Small Industries Corporation Limited		
9. The Madhya Pradesh Audyogik Vikas Nigam Limited		
10. The West Bengal Industrial Development Corporation Limited		
11. The Kerala State Industrial Development Corporation Limited		
12. The State Industrial and Investment Corporation of Maharashtra Limited	1-4-1972	S.O. 5254, 29-11-1971
13. The Gujarat Industrial and Investment Corporation Limited		
14. The Andhra Pradesh Small Scale Industrial Development Corporation Limited		
15. The Punjab State Small Industries Corporation Limited		
16. The Uttar Pradesh Small Industries Corporation Limited		
17. The Rajasthan State Industrial and Mineral Development Corporation Limited, Jaipur	1-4-1971	S.O. 18(E), 6- 1-1972
18. The Industrial Reconstruction Corporation of India Limited, Calcutta	1-4-1973	S.O. 359(E), 29- 6-1973
19. The Pradeshiya Industrial and Investment Corporation of Uttar Pradesh Limited, Lucknow	1-4-1973	S.O. 220(E), 28- 3-1974

THE COMPANIES (SURCHARGE ON INCOME-TAX) ACT, 1971

(ACT NO. LXII OF 1971)

(Received the assent of the President on 23rd December 1971.)

An Act to provide for the levy of a surcharge on income-tax payable in advance by companies during the financial year 1971-72 under the Income-tax Act, 1961

1. **Short title.**—This Act may be called the Companies (Surcharge on Income-tax) Act, 1971.

2. **Definitions.**—In this Act, unless the context otherwise requires,—

(*a*) "Income-tax Act" means the Income-tax Act, 1961 (XLIII of 1961);

(*b*) all words and expressions used in this Act shall have the meanings respectively assigned to them in the Income-tax Act.

3. **Levy of surcharge on income-tax payable by companies during 1971-72.**—(1) Every company which is liable to pay advance tax under section 210 or section 212 of the Income-tax Act during the financial year commencing on the 1st day of April, 1971, shall, in addition to the advance tax so payable, pay to the credit of the Central Government on or before the 15th day of March, 1972, a further sum, by way of

(3) that the facts which are admitted and/or found by the Appellate Tribunal and which are necessary for drawing up a statement of the case, are stated in the enclosure for ready reference;

(4) that the following questions of law arise out of the order of the Appellate Tribunal

1 . ..

2 . . . . .

3 . . .

etc ,

(5) that the applicant, therefore, requires under sub-section (1) of section 256 of the Income-tax Act, 1961, as applied to surtax by section 18 of the Companies (Profits) Surtax Act, 1964, that a statement of the case be drawn up and the questions of law numbered out of the questions of law referred to in paragraph 4 above be referred to the High Court,

(6) that the date on which the return of chargeable profits for the assessment year in connection with which the reference application is being made was filed is and the date on which the assessee company was served with a notice calling upon it to file the return of chargeable profits for that assessment is ,

(7) that the documents, or copies thereof, as specified below (the translation in English of the documents, where necessary, is annexed) be forwarded to the High Court with the statement of the case

Signed
(*Applicant*)
Signed
(*Authorised representative, if any*)

NOTE —This application when made by an assessee must be accompanied by a fee of one hundred rupees in a case where either of the dates shown in paragraph (6) falls before 1st April, 1971, and one hundred and twenty-five rupees in any other case It is suggested that the fee should be credited in the Treasury or a branch of the State Bank of India, or a branch of the Reserve Bank of India, after obtaining a chalan from the Income-tax Officer and the triplicate chalan sent to the Appellate Tribunal with the application The Appellate Tribunal will not accept cheques, drafts, hundies or other negotiable instruments

INSTITUTIONS NOTIFIED UNDER RULE 1(v) OF SECOND SCHEDULE TO THE COMPANIES (PROFITS) SURTAX ACT, 1964

In pursuance of rule 1(*v*) of the Second Schedule to the Companies (Profits) Surtax Act, 1964, the Central Government has notified the following financial institutions in respect of the assessment year mentioned against them and any subsequent assessment year

Institutions	*Assessment year commencing on*	*Notifications*
1. The Industrial Development Bank of India, established under the Industrial Development Bank of India Act, 1964 (XVIII of 1964) 2 All State Financial Corporations established under the State Financial Corporations Act, 1951 (LXIII of 1951) 3 The Madras Industrial Investment Corporation of India Limited 4 The Refinance Corporation for Industry Limited	1-4-1964	S O 3856, 13-12-1965

H

THE TAXATION LAWS (CONTINUATION AND VALIDATION OF RECOVERY PROCEEDINGS) ACT, 1964

(ACT NO. XI OF 1964)

(Received the assent of the President on 12th May 1964)

An Act to provide for the continuation and validation of proceedings in relation to Government dues and for matters connected therewith

1. Short title.—This Act may be called the Taxation Laws (Continuation and Validation of Recovery Proceedings) Act, 1964

2. Definitions.—In this Act, unless the context otherwise requires,—

(*a*) "assessee", in relation to—

(*i*) the Excess Profits Tax Act, 1940 (XV of 1940), or the Business Profits Tax Act, 1947 (XXI of 1947), means a person by whom the tax or any other sum is payable under that Act,

(*ii*) the Estate Duty Act, 1953 (XXXIV of 1953), means a person accountable or an accountable person as defined in that Act,

(*iii*) any other scheduled Act, means an assessee as defined in that Act,

(*b*) "Government dues", in relation to any scheduled Act, means any tax, duty, penalty, fine, interest, annuity deposit or any other sum payable to the Government by an assessee under that Act,

(*c*) "scheduled Act" means an Act specified in the Schedule,

(*d*) "Taxing Authority" in relation to any scheduled Act, means an officer (by whatever name called) empowered to serve upon an assessee a notice of demand in respect of any Government dues under that Act;

(*e*) "Tax Recovery Officer", in relation to any scheduled Act, means a Tax Recovery Officer as defined in that Act and where there is no such definition, means an officer (by whatever name called) to whom a certificate for the recovery of arrears of Government dues may be issued under that Act

3. Continuation and validation of certain proceedings.—(1) Where any notice of demand in respect of any Government dues is served upon an assessee by a Taxing Authority under any scheduled Act, and any appeal or other proceeding is filed or taken in respect of such Government dues, then,—

(*a*) where such Government dues are enhanced in such appeal or proceeding, the Taxing Authority shall serve upon the assessee another notice of demand only in respect of the amount by which such Government dues are enhanced and any proceedings in relation to such Government dues as are covered by the notice or notices of demand served upon him before the disposal of such appeal or proceeding may, without the service of any fresh notice of demand, be continued from the stage at which such proceedings stood immediately before such disposal,

surcharge on income-tax, calculated at the rate of two and one-half per cent of the amount specified in sub-section (2).

(2) The amount referred to in sub-section (1) shall be—

(*i*) in a case where advance tax is required to be paid by an order under sub-section (1) or sub-section (3) of section 210 of the Income-tax Act, the amount specified in such order,

(*ii*) in a case where advance tax is payable under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (3A) of section 212 of the Income-tax Act on the basis of the estimate furnished by the company, the amount of advance tax so payable.

(3) Any sum required to be paid by a company as surcharge on income-tax under sub-section (1) shall be paid without any notice of demand to the company in that behalf from the Income-tax Officer

4. Mode of recovery.—If the sum required to be paid under sub-section (1) of section 3 is not paid on or before the 15th day of March, 1972, the company shall be deemed to be an assessee in default and—

(*a*) the company shall be liable to pay simple interest at nine per cent per annum from the 16th day of March, 1972;

(*b*) all the provisions of sections 221 to 227, section 229, section 231 and section 232 of the Income-tax Act and the Second and Third Schedules to that Act and any rules made thereunder shall, so far as may be, apply as if the said provisions were the provisions of this Act and referred to surcharge on income-tax and sums imposed by way of penalty and interest under this Act instead of to income-tax and sums imposed by way of penalty and interest under that Act and as if references to sub-section (2) of section 220 were references to clause (*a*) of this section.

5. Credit for surcharge.—Any sum paid by or recovered from a company as surcharge on income-tax in pursuance of this Act shall be treated as a payment of tax under the Income-tax Act in respect of the income of the period which would be the previous year for the assessment year commencing on the 1st day of April, 1972, and credit therefor shall be given to the company for the purposes of assessment under section 140A, section 141A, section 143 or section 144 of the Income-tax Act.

6. **Power to remove difficulties.**—If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the purposes of this Act, as appear to it to be necessary or expedient for removing the difficulty.

7. **Power to make rules.**—(1) The Central Government may make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and, if before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, that rule shall thereafter have effect, only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE SCHEDULE

[See section 2(*c*)]

1 The Indian Income-tax Act, 1922 (XI of 1922)

2 The Excess Profits Tax Act, 1940 (XV of 1940).

3 The Business Profits Tax Act, 1947 (XXI of 1947).

4. The Estate Duty Act, 1953 (XXXIV of 1953).

5. The Wealth-tax Act, 1957 (XXVII of 1957).

6. The Expenditure-tax Act, 1957 (XXIX of 1957).

7. The Gift-tax Act, 1958 (XVIII of 1958).

8. The Income-tax Act, 1961 (XLIII of 1961).

9. The Super Profits Tax Act, 1963 (XIV of 1963).

10 The Companies (Profits) Surtax Act, 1964 (VII of 1964) (*added by Notification No S. O 1914, dated 1st June 1964*)

(*b*) where such Government dues are reduced in such appeal or proceeding,—

(*i*) it shall not be necessary for the Taxing Authority to serve upon the assessee a fresh notice of demand,

(*ii*) the Taxing Authority shall give intimation of the fact of such reduction to the assessee, and where a certificate has been issued to the Tax Recovery Officer for the recovery of such amount, also to that officer,

(*iii*) any proceedings initiated on the basis of the notice or notices of demand served upon the assessee before the disposal of such appeal or proceeding may be continued in relation to the amount so reduced from the stage at which such proceedings stood immediately before such disposal,

(*c*) no proceedings in relation to such Government dues (including the imposition of penalty or charging of interest) shall be invalid by reason only that no fresh notice of demand was served upon the assessee after the disposal of such appeal or proceeding or that such Government dues have been enhanced or reduced in such appeal or proceeding.

Provided that if as a result of any final order such Government dues (other than annuity deposit) have been reduced and the penalty imposed on the assessee for default in payment thereof exceeds the amount so reduced, the excess shall not be recovered and if it has already been recovered, it shall be refunded to the assessee on an application made by him to the Taxing Authority within such time and in such manner as may be prescribed by rules made under this Act·

Provided further that if the amount of penalty imposed on the assessee for failure to make any annuity deposit exceeds one-half of the amount of the annuity deposit required to be made as a result of such order, the excess shall not be recovered, and if it has already been recovered, shall be refunded to the assessee on an application made by him to the Taxing Authority within such time and in such manner as may be prescribed by rules made under this Act

Provided further that where any Government dues are reduced in such appeal or proceeding and the assessee is entitled to any refund thereof, such refund shall be made in accordance with the provisions of that Act

(2) For the removal of doubts, it is hereby declared that no fresh notice of demand shall be necessary in any case where the amount of Government dues is not varied as a result of any order passed in any appeal or other proceeding under any scheduled Act

(3) The provisions of this section shall have effect notwithstanding any judgment, decree or order of any court, tribunal or other authority

4. Power to amend the Schedule.—The Central Government may, by notification in the Official Gazette, add the name of any Central Act providing for the imposition or levy of any tax or duty in the Schedule and on the issue of any such notification, the Act so added shall be deemed to be an Act specified in the Schedule within the meaning of clause (*c*) of section 2

5. Act to have retrospective effect.—The provisions of this Act shall apply and shall be deemed always to have applied, in relation to every notice of demand served upon an assessee by any Taxing Authority under any scheduled Act whether such notice was or is served before or after the commencement of this Act.

2. I/We further state that as a result of a final order dated . . . . which was received by me/us on . . . . such Government dues have been reduced to Rs which is less than the amount of penalty recovered from me/us

3. I/We therefore request that a sum of Rs . being the excess amount of penalty recovered from me/us over the amount of Government dues as finally reduced, may be refunded to me/us

Dated *Signature(s)*

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*Here mention the scheduled Act under which Government dues were determined as payable
Delete inapplicable words

FORM No 2

[See rule 3(2)]

Application for refund of excess penalty imposed for default in payment of annuity deposit

I/We . . . . . of (address) . . . . . . do hereby state that I/we have paid a penalty of Rs . . which was imposed on me/us for default in payment of annuity deposit under the Annuity Deposit Scheme, 1964, for the assessment year . .. in the case of . . . .

2. I/We further state that as a result of a final order dated . . . . which was received by me/us on .. .. such annuity deposit has been reduced to Rs . and the penalty recovered from me/us exceeds one-half of the amount of annuity deposit as finally required to be made by me/us.

3 I/We therefore request that a sum of Rs .. . . being the excess amount of penalty recovered from me/us over one-half of the amount of annuity deposit as finally required to be made by me/us, may be refunded to me/us

Dated *Signature(s)*

Delete inapplicable words

THE TAXATION LAWS (REFUND OF EXCESS PENALTY) RULES, 1964

(Notification No S O 3797, dated 28th October 1964)

In exercise of the powers conferred by sub-section (1) of section 7 of the Taxation Laws (Continuation and Validation of Recovery Proceedings) Act, 1964 (XI of 1964), the Central Board of Direct Taxes hereby makes the following rules, namely

1. Short title and commencement.—(1) These rules may be called the Taxation Laws (Refund of Excess Penalty) Rules, 1964

(2) They shall come into force on the 1st day of November, 1964

2. Definitions.—In these rules,—

(*a*) "Act" means the Taxation Laws (Continuation and Validation of Recovery Proceedings) Act, 1964,

(*b*) "Form" means a form specified in the Schedule to these rules

3. Application for refund of excess penalty.—(1) An application for refund of excess penalty in respect of Government dues (other than annuity deposit) under the first proviso to sub-section (1) of section 3 of the Act shall be made by an assessee entitled to such refund in Form No 1 to the Taxing Authority—

(*a*) in a case where the final order reducing such Government dues is received by the assessee before the 1st day of November, 1964, not later than the 30th day of April, 1965,

(*b*) in any other case, within a period of six months from the date on which the final order reducing such Government dues is received by the assessee.

(2) An application for refund of excess penalty in respect of annuity deposit under the second proviso to sub-section (1) of section 3 of the Act shall be made by an assessee entitled to such refund in Form No. 2 to the Taxing Authority within a period of six months from the date on which the final order reducing the annuity deposit required to be made by him is received by him

SCHEDULE

FORM No. 1

[See rule 3(1)]

Application for refund of excess penalty imposed for default in payment of Government dues (other than annuity deposit)

I/We . ... of (address) .... do hereby state that I/we have paid a penalty of Rs which was imposed on me/us for default in payment of Government dues determined as payable by me/us under the . . . Act* . .. . for the assessment year/chargeable accounting period . . . . in respect of the estate of . ... /in the case of . .

(b) The amount of income declared, giving where available, details of the financial year or years in which the income was earned and the amount pertaining to each such year.

(c) Whether the amount declared is represented by cash (including bank deposits), bullion, investments in shares, debts due from other persons, commodities, or any other assets, and the name in which it is held and location thereof.

Provided that the declaration shall be of no effect unless it is made after the 28th day of February, 1965, and before the 1st day of June, 1965

(3) The rate of income-tax chargeable in respect of the amount referred to in sub-section (1) shall be sixty per cent of such amount

Provided that if before the 1st day of April, 1965, the tax on the amount declared is paid by the declarant at the rate of fifty-seven per cent of such amount, he shall not be liable to pay any further tax on such amount.

(4) A person shall not be considered to have furnished adequate security for the payment of the tax for the purposes of sub-section (1) unless the payment is guaranteed by a scheduled bank or the person makes an assignment, in favour of the President of India, of any security of the Central or State Government.

Explanation.—For the purposes of this sub-section, where an assignment of Government securities is made in favour of the President, the amount covered by such assignment shall be the market value of the securities on the date of the assignment

(5) Any amount of income-tax paid in pursuance of a declaration made under this section shall not be refundable in any circumstances, and no person who has made the declaration shall be entitled, in respect of any amount so declared or any amount of tax so paid, to reopen any assessment or reassessment made under the Indian Income-tax Act, 1922 (XI of 1922), or the Income-tax Act, 1961 (XLIII of 1961), or the Excess Profits Tax Act, 1940 (XV of 1940), or the Business Profits Tax Act, 1947 (XXI of 1947), or the Super Profits Tax Act, 1963 (XIV of 1963), or the Companies (Profits) Surtax Act, 1964 (VII of 1964), or claim any set-off or relief in any appeal, reference, revision or other proceeding in relation to any such assessment or reassessment.

(6) (a) Any amount declared by any person under this section in respect of which the tax referred to in sub-section (3) is paid shall not be included in his total income for any assessment under any of the Acts mentioned in sub-section (5) if he credits in the books of account, if any, maintained by him for any source of income or in any other record, the amount declared as reduced by the tax paid thereon under this section

(b) A credit made under clause (a) shall be intimated to the Income-tax Officer.

(7) (a) The Commissioner shall grant a certificate to every person who has made a declaration under this section and paid the income-tax under this section

(b) The certificate shall set forth the particulars of the amount stated in the declaration, the amount of income-tax paid in respect of the same and the date of payment

(8) (a) All particulars contained in any declaration made under this section or record of any proceeding under this section shall be treated as confidential and, notwithstanding anything contained in any law for the time being in force, no court shall be entitled to require any public servant to produce before it any such declaration or record or any part thereof or to give evidence before it in respect thereof

I

VOLUNTARY DISCLOSURE

THE FINANCE ACT, 1965

(ACT NO. X OF 1965)

(*Received the assent of the President on 11th May 1965.*)

1. Short title and commencement.—(1) This Act may be called the Finance Act, 1965

(2) Save as otherwise provided in this Act, sections 3 to 67 and 69 to 74 shall be deemed to have come into force on the 1st day of April, 1965, and section 68 shall be deemed to have come into force on the 1st day of March, 1965

* * *

68. Voluntary disclosure of income.—(1) Where any person makes a declaration in accordance with sub-section (2) in respect of the amount representing income—

(*a*) which he has failed to disclose in a return of income for any assessment year filed by him before the 1st day of March, 1965, under the Indian Income-tax Act, 1922 (XI of 1922), or the Income-tax Act, 1961 (XLIII of 1961), or

(*b*) which has escaped assessment for any assessment year for which an assessment has been made before the 1st day of March, 1965, under either of the said Acts, or

(*c*) for the assessment of which no proceeding under either of the said Acts has been taken before the 1st day of March, 1965,

he shall, notwithstanding anything contained in the said Acts, be charged income-tax at the rate specified in sub-section (3) in respect of the amount so declared if he,—

(*i*) pays the amount of income-tax as computed at the said rate, or

(*ii*) furnishes adequate security for the payment thereof in accordance with sub-section (4) and undertakes to pay such income-tax within a period, not exceeding six months, from the date of the declaration as may be specified by him therein, or

(*iii*) on or before the 31st day of May, 1965, pays such amount as is not less than one-half of the amount of income-tax as computed at the said rate or furnishes adequate security for the payment thereof in accordance with sub-section (4), and in either case assigns any shares in, or debentures of, a joint stock company or mortgages any immovable property, in favour of the President of India by way of security for the payment of the balance, and undertakes to pay such balance within the period referred to in clause (*ii*)

(2) The declaration shall be made to the Commissioner, and shall specify the period required to be specified under clause (*ii*) of sub-section (1), contain the name, address and signature of the person making the declaration and also full information in respect of the following matters, namely —

(*a*) Whether he was assessed to income-tax or not and, if assessed, the name of the Income-tax Circle in which he was assessed.

(*iii*) make a note or an inventory of any other article or thing found in the course of any search under this section which in his opinion will be useful for, or relevant to, any proceeding under this Act,

and the provisions of the Code of Criminal Procedure, 1898 (V of 1898), relating to searches shall apply so far as may be to searches under this section

(3) Subject to any rules made in this behalf, any authority referred to in sub-section (1) may impound and retain in its custody for such period as it thinks fit any books of account or other documents produced before it in any proceeding under this Act

Provided that an Income-tax Officer shall not—

(*a*) impound any books of account or other documents without recording his reasons for so doing, or

(*b*) retain in his custody any such books or documents for a period exceeding fifteen days (exclusive of holidays) without obtaining the approval of the Commissioner therefor

(4) Any proceeding before any authority referred to in this section shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (XLV of 1860)]

38. Power to call for information.—The Income-tax Officer or Assistant Commissioner may, for the purposes of this Act,— R 19

(*1*) require any firm, or Hindu undivided family to furnish him with a return of the members of the firm, or of the manager or adult male members of the family, as the case may be, and of their addresses,

(*2*) require any person whom he has reason to believe to be a trustee, guardian or agent, to furnish him with a return of the names of the persons for or of whom he is trustee, guardian or agent, and of their addresses,

[16][(*3*) require any assessee to furnish a statement of the names and addresses of all persons to whom he has paid in any year rent, interest, commission, royalty or brokerage, or any annuity not being an annuity taxable under the head "Salaries", amounting to more than four hundred rupees, together with particulars of all such payments made,]

[17][(*4*) require any dealer, broker or agent or any person concerned in the management of a stock or commodity Exchange to furnish a statement of the names and addresses of all persons to whom he or the Exchange has paid any sum in connection with the sale, exchange or transfer of a capital asset, or on whose behalf or from whom he or the Exchange has received any such sum, together with particulars of all such payments and receipts,]

[18][(*5*) require any person, including a banking company or any officer thereof, to furnish information in relation to such points or matters, or to furnish statements of accounts and affairs verified in the manner specified by the Income-tax Officer or the Assistant Commissioner giving information in relation to such points or matters, as, in the opinion of the Income-tax Officer or the Assistant Commissioner, will be useful for, or relevant to, any proceeding under this Act]

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16 Substituted by s 44, Indian I T (Amendment) Act, 1939
17 Inserted by s 11, I T and E P T (Amendment) Act, 1947
18 Inserted by s 21, F Act, 1956, w e f 1-4-1956

(*b*) No public servant shall disclose any particulars contained in any such declaration or record except to any officer employed in the execution of any of the Acts mentioned in sub-section (5) or to any officer appointed by the Comptroller and Auditor-General of India or the Board to audit income-tax receipts or refunds

(9) Any payment of income-tax under this section shall be made by depositing the amount to the credit of the Central Government at a Government treasury or sub-treasury, or at any branch of the Reserve Bank of India, or at any branch of the State Bank of India or at any of its agencies conducting Government treasury business.

(10) In this section,—

(*i*) "Board" means the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963 (LIV of 1963);

(*ii*) "Commissioner" means the Commissioner of Income-tax appointed under the Income-tax Act, 1961 (XLIII of 1961), having for the time being jurisdiction for the purposes of that Act over the person who makes a declaration under this section

* * *

THE FINANCE (NO. 2) ACT, 1965

(ACT NO XV OF 1965)

(Received the assent of the President on 11th September 1965)

1. Short title.—This Act may be called the Finance (No 2) Act, 1965

* * *

24. Voluntary disclosure of income.—(1) Subject to the provisions of this section, where any person makes, on or after the 19th day of August, 1965, and before the 1st day of April, 1966, a declaration in accordance with sub-section (2) in respect of the amount representing income chargeable to tax under the Indian Income-tax Act, 1922 (XI of 1922), or the Income-tax Act, 1961 (XLIII of 1961), for any assessment year commencing on or before the 1st day of April, 1964—

(*a*) for which he has failed to furnish a return within the time allowed under section 22 of the Indian Income-tax Act, 1922 (XI of 1922), or section 139 of the Income-tax Act, 1961 (XLIII of 1961), or

(*b*) which he has failed to disclose in a return of income filed by him on or before the 19th day of August, 1965, under the Indian Income-tax Act, 1922 (XI of 1922), or the Income-tax Act, 1961 (XLIII of 1961), or

(*c*) which has escaped assessment by reason of the omission or failure on the part of such person to make a return under either of the said Acts to the Income-tax Officer or to disclose fully and truly all material facts necessary for his assessment,

he shall, notwithstanding anything contained in the said Acts, be charged income-tax in accordance with sub-section (3) in respect of the amount so declared or if more than one declaration has been made by a person the aggregate of the amounts declared therein as reduced by any amount specified in any order made under sub-section (4) or, if such amount is altered by an order of the Board under sub-section (6), then, such altered amount (hereafter in this section referred to as the voluntarily disclosed income)

Provided that nothing in this section shall apply to the amount representing income assessable for any assessment year for which a notice under section 22 or section 34 of the Indian Income-tax Act, 1922 (XI of 1922), or section 139 or section 148 of the Income-tax Act, 1961 (XLIII of 1961), has been served upon such person and the date for furnishing the return, whether fixed originally or on extension, falls beyond the 19th day of August, 1965, and the return has not been furnished on or before the said date

(2) The declaration shall be made to the Commissioner and shall contain the name, address and signature of the person making the declaration (hereinafter in this section referred to as the declarant) and also full information in respect of the following matters, namely —

(*a*) whether he was assessed to income-tax or not and, if assessed, the designation of the Income-tax Officer by whom he was last assessed,

(*b*) the amount of income declared, giving, where available, details of the previous year or years in which the income was earned and the amount pertaining to each such year,

(*c*) whether the amount declared is represented by cash (including bank deposits), bullion, investment in shares, debts due from other persons, commodities or any other assets, and the name in which it is held and location thereof

(3) Income-tax shall be charged on the amount of the voluntarily disclosed income—

(a) where the declarant is a person other than a company, at the rates specified in Paragraph A, and

(b) where the declarant is a company, at the rates specified in Paragraph F,

of Part I of the First Schedule to the Finance Act, 1965 (X of 1965), as if such amount were the total income of the declarant, so, however, that—

(i) the proviso to the said Paragraph A or, as the case may be, the second proviso to the said Paragraph F shall not apply;

(ii) where the declarant is a person other than a company, the voluntarily disclosed income shall be deemed to be earned income,

(iii) where the declarant is a company, the voluntarily disclosed income shall be deemed to consist of income other than income by way of royalties or fees for rendering technical services or profits and gains derived from the business of generation or distribution of electricity or any other form of power or of construction, manufacture or production of any article or thing or of processing of goods or mining, and

(iv) where the declarant is a firm, it shall be deemed to be an unregistered firm

Explanation—For the purpose of charging income-tax at the rates specified in Paragraph F of Part I of the First Schedule to the Finance Act, 1965 (X of 1965), a company shall be deemed to be a company as is referred to in section 108 of the Income-tax Act, 1961 (XLIII of 1961), if it is such a company in relation to the assessment year commencing on the 1st day of April, 1965

(4) (a) Within thirty days of the receipt of a declaration under sub-section (2), the Commissioner shall, if he is satisfied that the whole or any part of the amount of income declared therein has been detected or is deemed to have been detected by the Income-tax Officer prior to the date of the declaration, make an order in writing to that effect recording therein his reasons therefor and specifying the amount of such income [which he shall estimate to the best of his judgment on the basis of such statement, information, document or other relevant material (including any asset) as is referred to in clause (b)] and forward a copy thereof to the declarant

Provided that no order under this sub-section shall be made unless the declarant has been given an opportunity of being heard

(b) For the purposes of this section, income shall be deemed to have been detected by the Income-tax Officer if—

(i) on the basis of any statement, information, document or other relevant material [including any asset seized under section 132 of the Income-tax Act, 1961 (XLIII of 1961)], which is in the knowledge or possession of the Income-tax Officer before the date of the declaration, or

(ii) on the basis of any statement, information, document or other relevant material (including any asset seized under any other law for the time being in force) which is in the knowledge or possession of any other officer of Government before the said date and which has come to the knowledge or possession of the Income-tax Officer not later than fifteen days from the date of the declaration,

such income can be shown to exist or its existence is considered so probable that a prudent man ought under the circumstances of the particular case to act upon the supposition that it exists

(5) If any person objects for any reason to an order passed by the Commissioner under sub-section (4), he may, within thirty days of the date on which such order is served on him, make an application to the Board, stating therein the reasons for such objection and requesting for appropriate relief in the matter

(6) On receipt of the application under sub-section (5), the Board may, after giving the applicant an opportunity of being heard, pass such orders as it thinks fit and forward a copy thereof to the applicant and also to the Commissioner

(7) (*a*) The Commissioner shall, as soon as may be after the receipt of the declaration, forward the same to the Income-tax Officer together with a copy of his order, if any, under sub-section (4) and the Income-tax Officer shall thereupon determine the sum payable by the declarant in accordance with sub-section (3) and shall serve upon him a notice of demand under section 156 of the Income-tax Act, 1961 (XLIII of 1961), and the provisions of Chapter XV and Chapter XVII-D of, and the Second Schedule and the Third Schedule to, that Act shall, as far as may be, apply accordingly as if the said sum were a sum payable under that Act

Provided that nothing contained in the said Chapter XVII-D shall be deemed to authorise the Income-tax Officer to extend the time for payment of the tax due or allow payment thereof in instalments unless—

(*i*) such amount as is not less than ten per cent of the amount specified as payable in the notice of demand is paid by the declarant within thirty-five days of the service of the notice, and

(*ii*) the previous authority of the Commissioner is obtained by him for allowing payment of the balance by instalments

Provided further that—

(*i*) the Commissioner shall in no case authorise payment by instalments unless the declarant furnishes such security for the payment of the balance of tax due in such form and in such manner as the Commissioner may, in his discretion, direct,

(*ii*) the instalments so authorised shall in no case extend beyond four years from the date of the declaration

(*b*) Where, in consequence of an order passed by the Board under sub-section (6), any additional amount of income-tax is found to be payable by the declarant under this section, the Income-tax Officer shall serve upon the declarant a further notice under section 156 of the Income-tax Act, 1961 (XLIII of 1961), in respect of such additional amount and all the provisions of clause (*a*) of this sub-section shall apply accordingly as if the notice were a notice issued under that clause

(8) An order under sub-section (6) shall be final and shall not be called in question before any court of law or any other authority

(9) Any amount of income-tax paid in pursuance of a declaration made under this section shall not be refundable in any circumstances and no person who has made the declaration shall be entitled, in respect of the voluntarily disclosed income or any amount of tax paid thereon, to reopen any assessment or reassessment made under the Indian Income-tax Act, 1922 (XI of 1922), or the Income-tax Act, 1961 (XLIII of 1961), or the Excess Profits Tax Act, 1940 (XV of 1940), or the Business Profits Tax Act, 1947 (XXI of 1947), or the Super Profits Tax Act, 1963 (XIV of 1963), or the Companies (Profits) Surtax Act, 1964 (VII of 1964), or claim any set off or relief in any appeal, reference, revision or other proceeding in relation to any such assessment or reassessment

(10) (*a*) The amount of the voluntarily disclosed income shall not be included in the total income of the declarant for any assessment year under any of the Acts mentioned in sub-section (9) if he has credited such amount in the books of account, if any, maintained by him for any source of income or in any other record

(*b*) The credit made shall be intimated by the declarant to the Income-tax Officer

(11) Notwithstanding anything contained hereinabove or in any other law for the time being in force, nothing contained in any declaration made under this section shall be admissible as evidence against the declarant for the purpose of any assessment proceeding or any proceeding relating to imposition of penalty or for the purpose of prosecution under any of the Acts mentioned in sub-section (9) or the Wealth-tax Act, 1957 (XXVII of 1957), in respect of any amount specified in an order made by the Commissioner under sub-section (4) or, if such amount is altered by an order of the Board under sub-section (6), then, such altered amount.

(12) (*a*) All particulars contained in any declaration made under this section or record of any proceeding under this section shall be treated as confidential and, notwithstanding anything contained in any law for the time being in force, no court shall be entitled to require any public servant to produce before it any such declaration or record or any part thereof or to give evidence before it in respect thereof

(*b*) No public servant shall disclose any particulars contained in any such declaration or record except to any officer employed in the execution of any of the Acts mentioned in sub-section (9), or the Wealth-tax Act, 1957 (XXVII of 1957), or to any officer appointed by the Comptroller and Auditor-General of India or the Board to audit income-tax receipts or refunds

(13) The provisions of section 154 of the Income-tax Act,1961 (XLIII of 1961), shall, as far as may be, apply in respect of the rectification of any mistake apparent from the record of any proceeding under this section as they apply to the rectification of a mistake in any order under the said Act

(14) Any payment of income-tax under this section shall be made by depositing the amount to the credit of the Central Government at a Government treasury or sub-treasury, or at any branch of the Reserve Bank of India, or at any branch of the State Bank of India, or at any of its agencies conducting Government treasury business

(15) The Commissioner shall on an application by the declarant grant a certificate to him setting forth the particulars of the voluntarily disclosed income and the amount of income-tax paid in respect of the same and the date of payment·

Provided that no certificate under this sub-section shall be granted unless the income-tax charged in pursuance of sub-section (3) of this section and the interest, if any, payable under sub-section (2) of section 220 of the Income-tax Act, 1961 (XLIII of 1961), has been paid by the declarant in full.

(16) (*a*) In this section,—

(*i*) "earned income" shall have the meaning assigned to it in the Finance Act, 1965 (X of 1965),

(*ii*) "person" shall have the meaning assigned to it in clause (*31*) of section 2 of the Income-tax Act, 1961 (XLIII of 1961), but shall not include any local authority or a corporation established by a Central, State or Provincial Act

(*b*) All other words and expressions used in this section but not defined and defined in the Income-tax Act, 1961 (XLIII of 1961), shall have the meanings respectively assigned to them in the said Act

* * *

THE TAXATION LAWS (AMENDMENT AND MISCELLANEOUS PROVISIONS) ACT, 1965

(ACT No XLI OF 1965)

(*Received the assent of the President on 4th December 1965*)

An Act further to amend the Income-tax Act, 1961, the Estate Duty Act, 1953, the Wealth-tax Act, 1957, the Gift-tax Act, 1958, and to provide for exemption from tax in certain cases of undisclosed income invested in National Defence Gold Bonds, 1980

1. Short title.—This Act may be called the Taxation Laws (Amendment and Miscellaneous Provisions) Act, 1965.

* * *

8. Exemption from tax in certain cases of undisclosed income invested in National Defence Gold Bonds, 1980.—(1) Where a person who has acquired any gold out of his income which has not been disclosed by him for the purposes of the Indian Income-tax Act, 1922 (XI of 1922), or the Income-tax Act, 1961 (XLIII of 1961), or the Excess Profits Tax Act, 1940 (XV of 1940), or the Business Profits Tax Act, 1947 (XXI of 1947), or the Super Profits Tax Act, 1963 (XIV of 1963), or the Companies (Profits) Surtax Act, 1964 (VII of 1964), tenders such gold as subscription for the National Defence Gold Bonds, 1980, prior to the detection of such income by the Income-tax Officer or the seizure of such gold under any law for the time being in force, such income shall, notwithstanding anything contained in the said Acts, not be included in his income, profits or gains chargeable to tax under the said Acts in an assessment or reassessment for any assessment year made under the said Acts on or after the 20th day of October, 1965

(2) In computing the net wealth of a person under the Wealth-tax Act, 1957 (XXVII of 1957), the value of the assets represented by the income, which under sub-section (1) is not includible in his income, profits or gains, shall, notwithstanding anything contained in the said Act, not be taken into account in an assessment or reassessment for any assessment year made under the said Act on or after the 20th day of October, 1965

(3) (*a*) The name of the person subscribing to the National Defence Gold Bonds, 1980, and any particulars relating to the Bonds subscribed to by him, shall be treated as confidential, and, notwithstanding anything contained in any law for the time being in force, no court shall be entitled to require any public servant to disclose the name of such person or any such particulars or to give any evidence in respect thereof

(*b*) No public servant shall disclose the name of the person subscribing to the National Defence Gold Bonds, 1980, or any particulars relating to the Bonds subscribed to by him, except to an officer employed in the execution of any of the Acts mentioned in sub-section (1) or the Wealth-tax Act, 1957 (XXVII of 1957), or to any officer appointed by the Comptroller and Auditor-General of India or the Central Board of Direct Taxes (constituted under the Central Boards of Revenue Act, 1963 (LIV of 1963)) to audit income-tax receipts or refunds

(4) In this section,—

(*a*) "gold" means gold, including its alloy, whether virgin, melted, remelted, wrought or unwrought, in any shape or form, and includes any gold coin (whether legal tender or not), any ornament and any other article of gold;

(*b*) "public servant" includes an officer or other employee of the Reserve Bank of India, the State Bank of India or any subsidiary bank of the State Bank of India

* * *

THE VOLUNTARY DISCLOSURE OF INCOME AND WEALTH ACT, 1976

(ACT No. VIII OF 1976)

(Received the assent of the President on 25th January 1976)

An Act to provide for voluntary disclosure of income and wealth and for matters connected therewith or incidental thereto

1. **Short title, extent and commencement.**—(1) This Act may be called the Voluntary Disclosure of Income and Wealth Act, 1976

(2) It extends to the whole of India

(3) It shall be deemed to have come into force on the 8th day of October, 1975

2. **Definitions.**—In this Act, unless the context otherwise requires,—

(*a*) (*i*) "Gold (Control) Act" means the Gold (Control) Act, 1968 (XLV of 1968),

(*ii*) "Income-tax Act" means the Income-tax Act, 1961 (XLIII of 1961),

(*iii*) "Wealth-tax Act" means the Wealth-tax Act, 1957 (XXVII of 1957),

(*b*) all other words and expressions used in this Act but not defined and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act

3. **Charge of income-tax on voluntarily disclosed income.**—(1) Subject to the provisions of this Act, where any person makes, on or after the date of commencement of this Act but before the 1st day of January, 1976, a declaration in accordance with the provisions of section 4 in respect of any income chargeable to tax under the Indian Income-tax Act, 1922 (XI of 1922), or the Income-tax Act for any assessment year—

(*a*) for which he has failed to furnish a return under section 139 of the Income-tax Act, or

(*b*) which he has failed to disclose in a return of income furnished by him under the Income-tax Act before the date of commencement of this Act, or

(*c*) which has escaped assessment by reason of the omission or failure on the part of such person to make a return under the Indian Income-tax Act, 1922 (XI of 1922), or the Income-tax Act or to disclose fully and truly all material facts necessary for his assessment or otherwise,

then, notwithstanding anything contained in the Indian Income-tax Act, 1922 (XI of 1922), or the Income-tax Act or in any Finance Act, income-tax shall be charged in respect of the income so declared (such income being hereinafter referred to as the voluntarily disclosed income) at the rate or rates specified in the Schedule

(2) Nothing contained in sub-section (1) shall apply in relation to—

(*i*) the income assessable for any assessment year for which a notice under section 139 or section 148 of the Income-tax Act has been served upon such person and the return has not been furnished before the commencement of this Act,

(ii) where any books of account, other documents, money, bullion, jewellery or other valuable articles or things belonging to the person making the declaration under sub-section (1) (hereafter in this section, in sections 4 to 13 and in the Schedule referred to as the declarant) have been seized as a result of any search under section 132 of the Income-tax Act or under section 37A of the Wealth-tax Act, the income in respect of the previous year in which such search was made or any earlier previous year

(3) In addition to the amount of income-tax to be paid under sub-section (1), the declarant shall invest a sum equal to five per cent of the amount of the voluntarily disclosed income in such securities as the Central Government may notify in this behalf in the Official Gazette

4. Particulars to be furnished in declaration.—(1) The declaration under sub-section (1) of section 3 shall be made to the Commissioner and shall be in such form and shall be verified in such manner as may be prescribed by rules made by the Board

(2) The declaration shall be signed—

(*a*) where the declarant is an individual, by the individual himself, where such individual is absent from India, by the individual concerned or by some person duly authorised by him in this behalf, and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf,

(*b*) where the declarant is a Hindu undivided family, by the *karta*, and where the *karta* is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family,

(*c*) where the declarant is a company, by the managing director thereof, or where for any unavoidable reason such managing director is not able to sign the declaration or where there is no managing director, by any director thereof,

(*d*) where the declarant is a firm, by the managing partner thereof, or where for any unavoidable reason such managing partner is not able to sign the declaration, or where there is no managing partner as such, by any partner thereof, not being a minor,

(*e*) where the declarant is any other association, by any member of the association or the principal officer thereof, and

(*f*) where the declarant is any other person, by that person or by some person competent to act on his behalf

(3) Any person, who has made a declaration under sub-section (1) of section 3 in respect of his income, or as a representative assessee in respect of the income of any other person, shall not be entitled to make any other declaration under that sub-section in respect of his income or, as the case may be, the income of such other person, and any such other declaration, if made, shall be deemed to be void

5. Time for payment of income-tax and for investment in notified securities.—(1) Subject to the provisions of sub-section (2), the income-tax payable under this Act in respect of the voluntarily disclosed income shall be paid by the declarant before making the declaration and the declaration shall be accompanied by proof of payment of such tax

(2) If the Commissioner is satisfied, on an application made in this behalf by the declarant, that the declarant is unable, for good and sufficient reasons, to pay the full

amount of income-tax in respect of the voluntarily disclosed income in accordance with sub-section (1), he may extend the time for payment of the amount which remains unpaid or allow payment thereof by instalments if the declarant furnishes adequate security for the payment thereof; so, however, that an amount which is not less than one-half of the amount of income-tax payable in respect of the voluntarily disclosed income shall be paid on or before the 31st day of March, 1976, and the remainder, if any, on or before the 31st day of March, 1977

(3) The security required to be furnished by a declarant for the purposes of sub-section (2) shall be in such form and in such manner as the Commissioner may, in his discretion, direct

(4) The investment in the securities referred to in sub-section (3) of section 3 shall be made by the declarant within thirty days from the date on which the declaration is made by him under sub-section (1) of that section

6. **Interest payable by declarant.**—If the amount of income-tax payable in respect of the voluntarily disclosed income is not paid on or before the 31st day of March, 1976, the declarant shall be liable to pay simple interest at twelve per cent per annum on the amount remaining unpaid from the 1st day of April, 1976, to the date of payment and the provisions of the Income-tax Act and the rules made thereunder shall, so far as may be, apply as if the interest payable under this section were interest payable under sub-section (2) of section 220 of that Act

7. **Mode of recovery.**—(1) If the declarant fails to pay the income-tax in respect of the voluntarily disclosed income within the time allowed under sub-section (2) of section 5 or to invest the amount required to be invested in the securities referred to in sub-section (3) of section 3 within the time specified in sub-section (4) of section 5, the declarant shall be deemed to be in default

(2) The provisions contained in sections 221 to 227, 229, 231 and 232 of the Income-tax Act and the Second and Third Schedules to that Act and any rules made thereunder shall, so far as may be, apply as if the said provisions were provisions of this Act and referred to income-tax and sums payable by way of penalty and interest under this Act instead of to tax and sums by way of penalty and interest payable under that Act and to the declarant instead of to the assessee

(3) Any arrears in respect of the amount required to be invested by the declarant in the securities referred to in sub-section (3) of section 3 shall be recoverable in accordance with the provisions of sub-section (2) as if such arrears were arrears of income-tax and the amount so recovered shall be utilised for the purchase of such securities in the name of the declarant.

8. **Voluntarily disclosed income not to be included in the total income.**—(1) The amount of the voluntarily disclosed income shall not be included in the total income of the declarant for any assessment year under the Indian Income-tax Act, 1922 (XI of 1922), or the Income-tax Act, or the Excess Profits Tax Act, 1940 (XV of 1940), or the Business Profits Tax Act, 1947 (XXI of 1947), or the Super Profits Tax Act, 1963 (XIV of 1963), or the Companies (Profits) Surtax Act, 1964 (VII of 1964), if the following conditions are fulfilled, namely —

(*i*) the declarant credits such amount in the books of account, if any, maintained by him for any source of income or in any other record, and intimates the credit so made to the Income-tax Officer,

(*ii*) the income-tax in respect of the voluntarily disclosed income is paid by the declarant, and

(*iii*) the amount required to be invested in the securities referred to in sub-section (3) of section 3 is so invested by the declarant.

(2) The Commissioner shall, on an application made by the declarant, grant a certificate to him setting forth the particulars of the voluntarily disclosed income, the amount of income-tax paid in respect of the same, the amount of investment made in the securities referred to in sub-section (3) of section 3 and the date of payment and investment

9. Voluntarily disclosed income not to affect finality of completed assessments, etc.—The declarant shall not be entitled, in respect of the voluntarily disclosed income or any amount of income-tax paid thereon, to reopen any assessment or reassessment made under any of the Acts mentioned in sub-section (1) of section 8 or claim any set off or relief in any appeal, reference or other proceeding in relation to any such assessment or reassessment

10. Income-tax in respect of voluntarily disclosed income not refundable.—Any amount of income-tax paid in pursuance of a declaration made under sub-section (1) of section 3 shall not be refundable under any circumstances

11. Declaration not admissible in evidence against declarant.—Notwithstanding anything contained in any other law for the time being in force, nothing contained in any declaration made under sub-section (1) of section 3 shall be admissible in evidence against the declarant for the purpose of any proceeding relating to imposition of penalty or for the purposes of prosecution under any of the Acts mentioned in sub-section (1) of section 8 or the Wealth-tax Act.

12. Secrecy of declaration.—(1) All particulars contained in a declaration made under sub-section (1) of section 3 shall be treated as confidential and, notwithstanding anything contained in any law for the time being in force, no court or any other authority shall be entitled to require any public servant or the declarant to produce before it any such declaration or any part thereof or to give any evidence before it in respect thereof

(2) No public servant shall disclose any particulars contained in any such declaration except to any officer employed in the execution of any of the Acts mentioned in sub-section (1) of section 8, or the Wealth-tax Act, or to any officer appointed by the Comptroller and Auditor-General of India or the Board to audit income-tax receipts or refunds

(3) The provisions of sub-sections (1) and (2) shall apply in relation to all documents and particulars relating to the investment in the securities referred to in sub-section (3) of section 3 (including the payment of interest on such securities) as they apply in relation to the declaration made under sub-section (1) of that section and the particulars contained therein

13. Exemption from wealth-tax in respect of assets specified in declaration.—(1) Where the voluntarily disclosed income is represented by cash (including bank deposits), bullion, investment in shares, debts due from other persons, commodities or any other assets specified in the declaration made under sub-section (1) of section 3—

(*a*) in respect of which the declarant has failed to furnish a return under section 14 of the Wealth-tax Act for the assessment year commencing on the 1st day of April, 1975, or any earlier assessment year or years, or

(*b*) which have not been shown in the return of net wealth furnished by him for the said assessment year or years, or

(*c*) which have been understated in value in the return of net wealth furnished by him for the said assessment year or years,

39. **Power to inspect the register of members of any company.**—The Income-tax Officer or Assistant Commissioner, or any person authorised in writing in this behalf by the Income-tax Officer or Assistant Commissioner, may inspect and, if necessary, take copies, or cause copies to be taken, of any register of the members, debenture-holders or mortgagees of any company or of any entry in such register

CHAPTER V

LIABILITY IN SPECIAL CASES

[19][40. **Guardians, trustees and agents.**—(1) Where the guardian or trustee of any person being a minor, lunatic or idiot (all of which persons are hereinafter in this sub-section included in the term "beneficiary") is entitled to receive on behalf of such beneficiary, or is in receipt on behalf of such beneficiary of, any income, profits or gains chargeable under this Act, the tax shall be levied upon and recoverable from such guardian or trustee, as the case may be, in like manner and to the same amount as it would be leviable upon and recoverable from any such beneficiary if of full age or sound mind and in direct receipt of such income, profits or gains, and all the provisions of this Act shall apply accordingly

(2) Where the trustee or agent of any person not resident in [20][the taxable territories] and not being a minor, lunatic or idiot (such person being hereinafter in this sub-section referred to as a beneficiary) is entitled to receive on behalf of such beneficiary, or is in receipt on behalf of such beneficiary of, any income, profits or gains chargeable under this Act, the tax, if not levied on the beneficiary direct, may be levied upon and recovered from such trustee or agent, as the case may be, in like manner and to the same amount as it would be leviable upon and recoverable from the beneficiary if in direct receipt of such income, profits or gains, and all the provisions of this Act shall apply accordingly]

41. **Courts of Wards, etc.**—[21][(1)] In the case of income, profits or gains chargeable under this Act which [22]* * the Courts of Wards, the Administrators-General, the Official Trustees or [23]* any receiver or manager (including any person whatever his designation who in fact manages property on behalf of another) appointed by or under any order of a Court, [24][or any trustee or trustees [25][appointed under a trust declared by a duly executed instrument in writing whether testamentary or otherwise] (including the trustee or trustees under any Wakf deed which is valid under the Mussalman Wakf Validating Act, 1913), are entitled to receive on behalf of any person,] the tax shall be levied upon and recoverable from such Court of Wards, Administrator-General, Official Trustee, receiver or manager [1][or trustee or trustees], in the like manner and to the same amount as it would be leviable upon and recoverable from [2][the person on whose behalf such income, profits or gains are receivable], and all the provisions of this Act shall apply accordingly

[19] Substituted by s 21, Indian I T (Amendment) Act, 1941
[20] Substituted for "British India" by Adaptation of Laws Order, 1950
[21] Inserted by s 46, Indian I T (Amendment) Act, 1939
[22] "Are received by" omitted, *ibid*
[23] "By" omitted, *ibid*
[24] Inserted, *ibid*
[25] Substituted for "appointed under a duly executed trust deed" by s 22, Indian I T (Amendment) Act, 1941
[1] Inserted by s 46, Indian I T (Amendment) Act, 1939
[2] Substituted for "any person on whose behalf such income, profits or gains are received", *ibid*

(*iii*) imposition of penalty on the declarant under the provisions of any of the said Acts, except under section 221 of the Income-tax Act or the corresponding provisions of any of the other said Acts, and

(*iv*) prosecution of the declarant under the provisions of any of the said Acts

(2) The declaration under sub-section (1) shall be made to the Commissioner and shall be in such form and shall be verified in such manner as may be prescribed by rules made by the Board

(3) A declaration under this section shall be signed by the person specified in sub-section (2) of section 4 as if the declaration had been made under that section

(4) A copy of the declaration made by the declarant under sub-section (1) shall be forwarded by the Commissioner to the Income-tax Officer and the information contained therein may be taken into account for the purposes of the proceedings relating to assessment or reassessment of the income of the declarant under the provisions of any of the Acts mentioned in sub-section (1) of section 8 or the Wealth-tax Act

(5) The immunity provided under sub-section (1) shall not be available to the declarant unless the tax chargeable in respect of the income of the previous year or years for which the declaration has been made is paid by the declarant in accordance with the provisions of section 5

Explanation —For the purposes of this sub-section, tax chargeable in respect of the income of any previous year for which the declaration is made shall be,—

(*a*) where the declarant has not furnished a return in respect of the total income of that year and no assessment has been made in respect of the total income of that year, the tax payable on the income declared under sub-section (1) for that year as if such income were the total income,

(*b*) where the declarant has furnished a return in respect of the total income of that year and no assessment has been made in pursuance of such return, the tax payable on the aggregate of the total income returned and the income declared under sub-section (1) for that year as if such aggregate were the total income, as reduced by the tax payable on the basis of the total income returned, and

(*c*) where an assessment in respect of the total income of that year has been made, the tax payable on the aggregate of the total income as assessed and the income declared under sub-section (1) for that year as if such aggregate were the total income, as reduced by the tax payable on the basis of the total income as assessed

(6) Where any tax is paid by the declarant in accordance with the provisions of section 5, read with sub-section (5) of this section, credit therefor shall be given to the declarant in the assessment made under the Indian Income-tax Act, 1922 (XI of 1922), or, as the case may be, the Income-tax Act, in respect of his total income of the previous year or years

(7) Nothing in sub-section (1) shall apply in relation to any income which has been included in the total income of the declarant in any assessment made by the Income-tax Officer before the date on which the declaration under that sub-section is made

15. Voluntary disclosure of wealth.—(1) Subject to the provisions of this section, where any person makes, on or after the date of commencement of this Act but before the 1st day of January, 1976, a declarati[illegible] resp[illegible]

then, notwithstanding anything contained in the Wealth-tax Act or any rules made thereunder,—

(i) wealth-tax shall not be payable by the declarant in respect of the assets referred to in clause (a) or clause (b) and such assets shall not be included in his net wealth for the said assessment year or years,

(ii) the amount by which the value of the assets referred to in clause (c) has been understated in the return of net wealtn for the said assessment year or years, to the extent such amount does not exceed the voluntarily disclosed income utilised for acquiring such assets, shall not be taken into account in computing the net wealth of the declarant for the said assessment year or years

Explanation—Where a declaration under sub-section (1) of section 3 is made by a firm, the assets referred to in clause (i) or, as the case may be, the amount referred to in clause (ii) shall not be taken into account in computing the net wealth of any partner of the firm or, as the case may be, in determining the value of the interest of any partner in the firm

(2) The provisions of sub-section (1) shall not apply unless the conditions specified in sub-section (1) of section 8 are fulfilled by the declarant.

(3) All words and expressions used in this section and in section 15 but not defined and defined in the Wealth-tax Act shall have the meanings respectively assigned to them in that Act.

14. Disclosure of income in cases of search and seizure.—(1) Subject to the provisions of this section, where any books of account, other documents, money, bullion, jewellery or other valuable articles or things belonging to a person have been seized as a result of a search under section 132 of the Income-tax Act or section 37A of the Wealth-tax Act and such person (hereafter in this section referred to as the declarant) makes, on or after the date of commencement of this Act but before the 1st day of January, 1976, a declaration in accordance with sub-section (2) in respect of any income relating to the previous year in which such search was made or any earlier previous year—

(a) for which he has failed to furnish a return under section 139 of the Income-tax Act, or

(b) which he has failed to disclose in a return of income furnished by him under the Income-tax Act before the commencement of this Act, or

(c) which has escaped assessment by reason of the omission or failure on the part of such person to make a return under the Indian Income-tax Act, 1922 (XI of 1922), or the Income-tax Act, or to disclose fully and truly all material facts necessary for his assessment or otherwise,

then, notwithstanding anything contained in any of the Acts mentioned in sub-section (1) of section 8 or the Wealth-tax Act, the amount of income so declared or, as the case may be, the value of the assets representing such income, shall not be taken into account for the purposes of—

(i) payment of interest by the declarant under sub-section (8) of section 139 of the Income-tax Act,

(ii) payment of interest by the declarant under section 215 or section 217 of the Income-tax Act or the corresponding provisions of the Indian Income-tax Act, 1922 (XI of 1922),

(ii) where an assessment has been made in pursuance of the return of net wealth furnished by the declarant, the wealth-tax payable on the aggregate of the net wealth as assessed and the value declared under that clause for that year as if such aggregate were the net wealth, as reduced by the wealth-tax payable on the net wealth as assessed

(6) The sum referred to in sub-section (5) shall be,—

(a) where the declaration has been made in respect of one assessment year, a sum equal to two and a half per cent of the amount of net wealth declared under clause (a) of sub-section (1), or, as the case may be, the value declared under clause (b) of that sub-section,

(b) where the declaration has been made in respect of more than one assessment year, a sum equal to two and a half per cent of the net wealth declared under clause (a) of sub-section (1), or, as the case may be, the value declared under clause (b) of that sub-section, in respect of the last of such assessment years.

(7) Where any wealth-tax is paid by the declarant for any assessment year in accordance with the provisions of section 5, read with sub-section (5) of this section, credit therefor shall be given to the declarant in the assessment made under the Wealth-tax Act for that year.

16. Immunity from penalty, prosecution, etc., under certain Acts.—(1) Where—

(a) the voluntarily disclosed income declared under sub-section (1) of section 3 or any part thereof, or

(b) the net wealth, or the assets the value whereof is, declared under sub-section (1) of section 15 or any part of such net wealth or assets,

is or are represented by gold, then, notwithstanding anything contained in the Customs Act, 1962 (LII of 1962), or the Gold (Control) Act, such gold shall not be liable to confiscation under either of the said Acts and the person making the declaration shall not be liable to imposition of any penalty or infliction of any punishment under either of the said Acts for any act or omission in relation to such gold, if he fulfils the following conditions, namely —

(A) in a case where the gold is owned, possessed, held or controlled by the person making the declaration (such gold being owned, possessed, held or controlled by him in his capacity as a licensed dealer), necessary entries are made by him in the accounts, registers and documents maintained under the Gold (Control) Act, under intimation to the Gold Control Officer of the rank of an Assistant Collector of Central Excise or of Customs before the 1st day of February, 1976, and such other steps as are necessary for him to comply with the requirements of that Act in relation to such gold are taken by him before that date,

(B) in any other case,—

(i) where the gold is an article or ornament or both and the weight of such article or ornament, or the aggregate weight of both, together with the weight of any other gold (being an article or ornament) owned, possessed, held or controlled by him, exceeds the limits specified in sub-section (5) of section 16 of the Gold (Control) Act, such article or ornament or both, as the case may be, is or are declared in the form prescribed under sub-section (1), and in the manner specified in sub-section (8), of that section before the 1st day of February, 1976,

(*a*) the net wealth chargeable to wealth-tax for any assessment year for which he has failed to furnish a return under section 14 of the Wealth-tax Act, or

(*b*) the value of the assets which has not been disclosed, or the value of the assets which has been understated, in any return of net wealth for any assessment year,

then, notwithstanding anything contained in that Act, the net wealth, or, as the case may be, the value so declared shall not be taken into account for the purposes of any proceedings relating to imposition of penalty on the person making the declaration under this sub-section (hereafter in this section referred to as the declarant) or for the purposes of the prosecution of the declarant under that Act

Provided that—

(*i*) nothing contained in clause (*a*) shall apply in relation to the net wealth assessable for any assessment year for which a notice under section 14 or section 17 of that Act has been served upon the declarant before the commencement of this Act,

(*ii*) nothing contained in clause (*b*) shall apply in relation to so much of the value of such assets as has been assessed in any assessment for the relevant assessment year made by the Wealth-tax Officer before the date on which the declaration under this sub-section is made

(2) The declaration under sub-section (1) shall be made to the Commissioner and shall be in such form and shall be verified in such manner as may be prescribed by rules made by the Board

(3) A declaration under sub-section (1) shall be signed by the person specified in sub-section (2) of section 4 as if the declaration had been made under that section.

(4) A copy of the declaration made by the declarant under sub-section (1) shall be forwarded by the Commissioner to the Wealth-tax Officer and the information contained therein may be taken into account for the purposes of the proceedings relating to assessment or reassessment of the net wealth of the declarant under the provisions of the Wealth-tax Act

(5) The immunity provided under sub-section (1) shall not be available to the declarant unless the wealth-tax chargeable in respect of the net wealth for the assessment year or years for which the declaration has been made is paid by the declarant in accordance with the provisions of section 5 and the declarant invests in the securities referred to in sub-section (3) of section 3 within the time specified in sub-section (4) of section 5 the sum specified in sub-section (6) of this section

Explanation—For the purposes of this sub-section, wealth-tax chargeable in respect of the net wealth for any assessment year for which the declaration is made shall be—

(*a*) in a case falling under clause (*a*) of sub-section (1), the wealth-tax payable in respect of the net wealth declared under that clause for that year,

(*b*) in a case falling under clause (*b*) of sub-section (1),—

(*i*) where no assessment has been made in pursuance of the return of net wealth furnished by the declarant, the wealth-tax payable on the aggregate of the net wealth returned and the value declared under that clause for that year as if such aggregate were the net wealth, as reduced by the wealth-tax payable on the basis of the net wealth returned,

section 13 and in sub-section (4) of section 16, nothing contained in this Act shall be construed as conferring any benefit, concession or immunity on any person other than the person making the declaration under this Act

19. Power to remove difficulties.—(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament

20. Power to make rules.—(1) The Board may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act

(2) Without prejudice to the generality of the foregoing power, such rules may provide for,—

(*a*) the form in which a declaration may be made under sub-section (1) of section 3 and the manner in which it may be verified,

(*b*) the form in which a declaration may be made under sub-section (1) of section 14 and the manner in which it may be verified,

(*c*) the form in which a declaration may be made under sub-section (1) of section 15 and the manner in which it may be verified

(3) The Central Government shall cause every rule made under this Act to be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule

21. Provisions of Act not to apply to certain persons.—The provisions of this Act shall not apply to any person in respect of whom an order of detention has been made under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (LII of 1974)

Provided that—

(*i*) such order of detention, being an order to which the provisions of section 9 or section 12A of the said Act do not apply, has not been revoked on the report of the Advisory Board under section 8 of the said Act or before the receipt of the report of the Advisory Board, or

(*ii*) such order of detention, being an order to which the provisions of section 9 of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the review under sub-section (3) of section 9, or on the report of the Advisory Board under section 8, read with sub-section (2) of section 9, of the said Act, or

(*iii*) such order of detention, being an order to which the provisions of section 12A of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the first review under sub-section (3) of that section, or on the basis of the report of the Advisory Board under section 8, read with sub-section (6) of section 12A, of the said Act, or

(*iv*) such order of detention has not been set aside by a court of competent jurisdiction

(ii) where the gold is primary gold, such gold is either sold to any licensed dealer under intimation to the Gold Control Officer of the rank of an Assistant Collector of Central Excise or of Customs before the 1st day of February, 1976, or is made into ornaments and a declaration in this behalf is made in the form prescribed under sub-section (1), and in the manner specified in sub-section (8), of section 16 of the Gold (Control) Act before that date

(2) Notwithstanding anything contained in the Gold (Control) Act, any primary gold referred to in sub-clause (ii) of clause (B) of sub-section (1) may be sold by the person making the declaration to any licensed dealer and such licensed dealer may purchase such gold, provided that the total quantity of primary gold (not being in the form of standard gold bars) in the possession or custody of such dealer and the quantity of primary gold (not being in the form of standard gold bars) to be so purchased does not exceed the limit specified in clause (a) or clause (b) or clause (c) or, as the case may be, clause (d) of the proviso to sub-section (1) of section 32 of that Act

(3) Where a declaration is made under sub-clause (i) or sub-clause (ii) of clause (B) of sub-section (1), the provisions of section 16 of the Gold (Control) Act shall, so far as may be, apply as if such declaration were a declaration made under that section

(4) The immunity provided under sub-section (1) shall, in a case where the person making the declaration is a firm, also extend to the partners of the firm

(5) Nothing in this section shall apply in relation to any gold,—

(a) which has been seized or confiscated under the Customs Act, 1962 (LII of 1962), or the Gold (Control) Act before the declaration under sub-section (1) of section 3 or, as the case may be, under sub-section (1) of section 15, is made, or

(b) which is seized as a result of any search made under either of the said Acts where such search had commenced before such declaration is made, or

(c) in respect of which any other proceedings under either of the said Acts are pending before any authority before such declaration is made

(6) For the removal of doubts, it is hereby declared that nothing in this section shall be construed as exempting any person from discharging any obligation under the Gold (Control) Act on or after the 1st day of February, 1976, in relation to the gold referred to in this section

Explanation —For the purposes of this section, the expressions "article", "gold", "Gold Control Officer", "licensed dealer", "ornament", "primary gold" and "standard gold bar" shall have the meanings respectively assigned to them in the Gold (Control) Act

17. Applicability of certain provisions of Income-tax Act and of Chapter V of Wealth-tax Act.—The provisions of Chapter XV of the Income-tax Act relating to liability in special cases and of section 189 of that Act or of Chapter V of the Wealth-tax Act relating to liability to assessment in special cases shall, so far as may be, apply in relation to proceedings under this Act as they apply in relation to proceedings under the Income-tax Act or, as the case may be, the Wealth-tax Act

18. Removal of doubts.—For the removal of doubts, it is hereby declared that, save as otherwise expressly provided in the *Explanation* to sub-section (1) of

THE VOLUNTARY DISCLOSURE OF INCOME AND WEALTH RULES, 1975

(*Notification No S.O 597(E), dated 8th October 1975*)

In exercise of the powers conferred by section 19 of the *Voluntary Disclosure of Income and Wealth Ordinance, 1975 (XV of 1975), and all other powers enabling it in this behalf, the Central Board of Direct Taxes hereby makes the following rules, namely —

1. Short title.—These rules may be called the Voluntary Disclosure of Income and Wealth Rules, 1975.

2. Definitions.—(*a*) In these rules, the "Ordinance" means the Voluntary Disclosure of Income and Wealth Ordinance, 1975 (XV of 1975),

(*b*) All references to "Forms" in these rules shall be construed as references to the Forms set out in the Appendix hereto

3. Form of declaration under section 3 in respect of voluntarily disclosed income.—The declaration under sub-section (1) of section 3 of the Ordinance in respect of voluntarily disclosed income shall be in Form A and shall be verified in the manner indicated therein

4. Form of declaration in respect of income under section 14 in cases of search and seizure.—The declaration in respect of income under sub-section (1) of section 14 of the Ordinance in cases of search and seizure shall be made in duplicate in Form B and shall be verified in the manner indicated therein

5. Form of declaration under section 15 in respect of net wealth or value of assets not disclosed or understated.—(1) The declaration under sub-section (1) of section 15 of the Ordinance in respect of net wealth or value of assets not disclosed or understated shall be made in duplicate in Form C and shall be verified in the manner indicated therein

(2) Where a declaration under sub-rule (1) is made in respect of net wealth, or includes any declaration in respect of net wealth, for any assessment year or years, the declaration shall be accompanied by a return of net wealth for such year or years in the form prescribed under section 14 of the Wealth-tax Act, 1957 (XXVII of 1957)

*This Ordinance has been replaced by the Voluntary Disclosure of Income and Wealth Act, 1976, which is printed *ante*

22. Repeal and saving.—(1) The Voluntary Disclosure of Income and Wealth Ordinance, 1975 (XV of 1975), and the Voluntary Disclosure of Income and Wealth (Amendment) Ordinance, 1975 (XXIII of 1975), are hereby repealed

(2) Notwithstanding such repeal, anything done or any action taken under the Voluntary Disclosure of Income and Wealth Ordinance, 1975 (XV of 1975), as amended by the Voluntary Disclosure of Income and Wealth (Amendment) Ordinance, 1975 (XXIII of 1975), shall be deemed to have been done or taken under the corresponding provision of this Act.

(3) Where during the period commencing on the 8th October, 1975, and ending with the 28th November, 1975, any person had furnished security in accordance with sub-section (3) of section 5 of the Voluntary Disclosure of Income and Wealth Ordinance, 1975 (XV of 1975), as it stood immediately before its amendment by the Voluntary Disclosure of Income and Wealth (Amendment) Ordinance, 1975 (XXIII of 1975), such person shall be deemed to have furnished adequate security for the purposes of sub-section (2) of section 5 of this Act.

THE SCHEDULE

[See section 3(1)]

Rates of income-tax

(*a*) In the case of a declarant, being a company, at the rate of 60 per cent. of the voluntarily disclosed income

(*b*) In the case of a declarant, being a person other than a company,—

(1) where the voluntarily disclosed income does not exceed Rs 25,000	25 per cent of the voluntarily disclosed income,
(2) where the voluntarily disclosed income exceeds Rs 25,000 but does not exceed Rs 50,000	Rs 6,250 *plus* 40 per cent of the amount by which the voluntarily disclosed income exceeds Rs 25,000,
(3) where the voluntarily disclosed income exceeds Rs 50,000	Rs 16,250 *plus* 60 per cent of the amount by which the voluntarily disclosed income exceeds Rs 50,000

6 Total amount of voluntarily disclosed income . . . .

7. Income-tax payable thereon .. ..

8 Income-tax paid before the date of declaration [Attach proof of payment] . . . . .

9. Whether the amount of the voluntarily disclosed income has been credited in the books of account or any other record [If so, attach copies of the relevant entries in duplicate] .

VERIFICATION

I, . (name in block letters) , *son/daughter/wife of Shri . .

.. . . . . (name of *father/husband) , solemnly declare that—

(*a*) the information given in this declaration is correct and complete to the best of my knowledge and belief,

(*b*) in addition to my own income in respect of the assessment year(s) for which the declaration is made, income of other persons in respect of which I am chargeable to tax and income accruing or arising from assets held by me through any other person, for which I had failed to furnish a return under section 139 of the Income-tax Act, 1961/*which I had failed to disclose in a return of income furnished by me before the 8th October, 1975/*which has otherwise escaped assessment, has been disclosed in this declaration;

(*c*) the income of any other person in respect of which I am not chargeable to tax has not been included in this declaration.

I further declare that I am making this declaration in my capacity as . . (designation) and that I am competent to make this declaration and verify it

Place *Signature*

Date

*Score out whichever is not applicable

NOTES —1 Before signing the verification, the signatory should satisfy himself that the declaration is correct and complete in every respect

2 Any person who has made a declaration under section 3(1) of the Voluntary Disclosure of Income and Wealth Ordinance, 1975, is not entitled to make any other declaration under that section and any such other declaration, if made, shall be deemed to be void

3 A declaration under section 3(1) of the said Ordinance cannot be made in respect of—

(*a*) income for any assessment year which the declarant has failed to disclose in a return of income furnished on or after the 8th October, 1975,

(*b*) income for any assessment year for which a notice under section 139 or section 148 of the Income-tax Act, 1961, has been served on the declarant, but the return for that year has not been furnished by him before the 8th October, 1975,

(*c*) income in respect of the previous year in which the books of account, other documents, money, bullion, jewellery or other valuable articles or things belonging to the declarant have been seized as a result of any search made under section 132 of the Income-tax Act, 1961, or section 37A of the Wealth-tax Act, 1957, or any earlier previous year

APPENDIX

FORM A

VOLUNTARY DISCLOSURE

[See rule 3]

Form of declaration under section 3(1) of the Voluntary Disclosure of Income and Wealth Ordinance, 1975, in respect of voluntarily disclosed income

To
The Commissioner of Income-tax,
.. .

Sir,

I hereby make a declaration under section 3(1) of the Voluntary Disclosure of Income and Wealth Ordinance, 1975

I give below the necessary particulars —

1 (*a*) Name of the declarant .. . . ..
(in block letters)

(*b*) Permanent Account Number (if any) . . . ...

2 Address Office . . .. Tel No. . . ..
Residence . . Tel No .

3 Status of the declarant . . . .
(state whether individual, Hindu undivided family, firm, company, etc)

4 (*a*) Whether assessed to income-tax..

(*b*) If so, name of Income-tax Circle/Ward/District where last assessed .. .

†5 Statement of voluntarily disclosed income

Serial No	Amount of income declared	‡Assessment year(s) to which the income relates	If the income is represented by cash (including bank deposits), bullion, investment in shares, debts due from other persons, commodities or any other assets			Remarks
			Description of asset	Name in which held	Amount	
1	2	3	4	5	6	7

†If space provided is insufficient, separate enclosure may be used for the purpose

‡Where the voluntarily disclosed income relates to more than one assessment year, income in respect of each assessment year may, if possible, be indicated separately

[3][Provided that where any such income, profits or gains or any part thereof are not specifically receivable on behalf of any one person, or where the individual shares of the persons on whose behalf they are receivable are indeterminate or unknown, the tax shall be levied and recoverable at the maximum rate, [4][but, where such persons have no other personal income chargeable under this Act and none of them is an artificial juridical person, as if such income, profits or gains or such part thereof were the total income of an association of persons]

Provided further that when part only of the income, profits and gains of a trust is chargeable under this Act, that proportion only of the income, profits and gains receivable by a beneficiary from the trust which the part so chargeable bears to the whole income, profits and gains of the trust shall be deemed to have been derived from that part]

[5][(2) Nothing contained in sub-section (1) shall prevent either the direct assessment of the person on whose behalf income, profits or gains therein referred to are receivable, or the recovery from such person of the tax payable in respect of such income, profits or gains]

42. [6]**[Income deemed to accrue or arise within** [7]**[the taxable territories].]**—(1) [8][All income, profits or gains accruing or arising], whether directly or indirectly, through or from any business connection [9][in [7][the taxable territories], or through or from any property in [7][the taxable territories], or through or from any asset or source of income in [7][the taxable territories], or through or from any money lent at interest and brought into [7][the taxable territories] in cash or in kind] [10][or through or from the sale, exchange or transfer of a capital asset in [7][the taxable territories],] shall be deemed to be income accruing or arising within [7][the taxable territories], and [11][where the person entitled to the income, profits or gains is not resident in [7][the taxable territories], shall be chargeable to income-tax either in his name or in the name of his agent, and in the latter case] such agent shall be deemed to be, for all the purposes of this Act, the assessee in respect of such income-tax R 33

[12][Provided that where the person entitled to the income, profits or gains is not resident in [7][the taxable territories] the income-tax so chargeable may be recovered by deduction under any of the provisions of section 18 and that] any arrears of tax may be recovered also in accordance with the provisions of this Act from any assets of the non-resident person which are, or may at any time come, within [7][the taxable territories]

[13][Provided further that any such agent, or any person who apprehends that he may be assessed as such an agent, may retain out of any money payable by him to such non-resident person a sum equal to his estimated liability under this sub-section, and in the event of any disagreement between the non-resident person and such agent or person as to the amount to be so retained, such agent or person may secure from the Income-tax Officer a certificate stating the amount to be so retained pending final settlement of the liability, and the certificate so obtained shall be his warrant for retaining that amount

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3 Inserted by s 46, Indian I T (Amendment) Act, 1939
4 Inserted by s 5, Indian I T (Amendment) Act, 1946
5 Inserted by s 46, Indian I T (Amendment) Act, 1939
6 Substituted for "Non-residents" by s 12, I T and E P T (Amendment) Act, 1947
7 Substituted for "British India" by Adaptation of Laws Order, 1950
8 Substituted by s 47, Indian I T (Amendment) Act, 1939
9 Substituted for " or property in British India", *ibid*
10 Inserted by s 12, I T and E P T (Amendment) Act, 1947
11 Substituted by s 47, Indian I T (Amendment) Act, 1939
12 Substituted for "Provided that", *ibid*
13 Inserted, *ibid*

FORM B

VOLUNTARY DISCLOSURE

[See rule 4]

Form of declaration in respect of income under section 14(1) of the Voluntary Disclosure of Income and Wealth Ordinance, 1975, in case of search and seizure

To

The Commissioner of Income-tax,

. .

Sir,

I hereby make a declaration under section 14(1) of the Voluntary Disclosure of Income and Wealth Ordinance, 1975

I give below the necessary particulars.—

1 (*a*) Name of the declarant . . . .
(in block letters)

(*b*) Permanent Account Number (if any) . .. .

2 Address Office Tel No.

Residence . Tel No. . .

3 Status of the declarant . .
(state whether individual, Hindu undivided family, firm, company, etc)

4 (*a*) Whether assessed to income-tax . . . .

(*b*) If so, name of Income-tax Circle/Ward/ District where last assessed

5 Date(s) on which search under section 132 of the Income-tax Act, 1961, or section 37A of the Wealth-tax Act, 1957, was made . .

†6 Statement of income declared

Serial No	Assessment year to which the income relates	Amount of income declared	If the income is represented by cash (including bank deposits), bullion, investment in shares, debts due from other persons, commodities or any other assets			Remarks
			Description of assets	Name in which held	Amount	
1	2	3	4	5	6	7

†If space provided is insufficient, separate enclosure may be used for the purpose

7 Total amount of income declared . . . . .

‡8 Amount of tax chargeable in respect of such income [Where the declaration relates to the income of more than one assessment year, the tax in respect of each year should be shown separately] . . . .

9. Income-tax paid before the date of declaration [Attach proof of payment] . . . . ..

VERIFICATION

I, . (name in block letters) . . . . , *son/daughter/wife of Shri . (name of *father/husband) . , solemnly declare that—

(*a*) the information given in this declaration is correct and complete to the best of my knowledge and belief,

(*b*) in addition to my own income in respect of the assessment year(s) for which the declaration is made, income of other persons in respect of which I am chargeable to tax and income accruing or arising from assets held by me through any other person, for which I had failed to furnish a return under section 139 of the Income-tax Act, 1961/*which I had failed to disclose in a return of income furnished by me before the 8th October, 1975/*which has otherwise escaped assessment, has been disclosed in this declaration;

(*c*) the income of any other person in respect of which I am not chargeable to tax has not been included in this declaration

I further declare that I am making this declaration in my capacity as . . (designation) and that I am competent to make this declaration and verify it

Place *Signature*

Date

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‡The tax chargeable in respect of the income shown in the declaration has to be calculated in accordance with the provisions of the *Explanation* to sub-section (5) of section 14 of the Voluntary Disclosure of Income and Wealth Ordinance, 1975

*Score out whichever is not applicable

NOTES —1 Before signing the verification, the signatory should satisfy himself that the declaration is correct and complete in every respect

2 Any income which has been included in the total income of the declarant in any assessment made by the Income-tax Officer before the date on which this declaration is made should *not* be shown in this declaration

3 A declaration under section 14(1) of the Voluntary Disclosure of Income and Wealth Ordinance, 1975, cannot be made in respect of income for any assessment year which the declarant has failed to declare in a return of income furnished on or after the 8th October, 1975

4 This declaration should be submitted in duplicate

FORM C

VOLUNTARY DISCLOSURE

[See rule 5]

Form of declaration under section 15(1) of the Voluntary Disclosure of Income and Wealth Ordinance, 1975, in respect of net wealth or value of assets not disclosed or understated

To

The Commissioner of Wealth-tax,

.

Sir,

I hereby make a declaration under section 15(1) of the Voluntary Disclosure of Income and Wealth Ordinance, 1975.

I give below the necessary particulars —

1 (*a*) Name of the declarant .. .
(in block letters)

(*b*) Permanent Account Number (if any). .. . . .

2 Address· Office . Tel No. . ...

Residence . ..... Tel No. .

3 Status of the declarant . . ..
(state whether individual or Hindu undivided family)

4\. (*a*) Whether assessed to wealth-tax . . ..

(*b*) If so, name of Wealth-tax Circle/Ward/ District where last assessed .

†5 Statement of net wealth declared [Attach a return of net wealth for each assessment year]

Serial No	Assessment year	Amount of net wealth	Remarks
1	2	3	4

6 Statement of value of assets not disclosed or understated

Serial No	Assessment year	Description of assets not disclosed or undervalued	Value of assets as returned/as assessed	Value declared	Amount understated
1	2	3	4	5	6

†If space provided is insufficient, separate enclosure may be used for the purpose

‡7 Amount of wealth-tax chargeable [Where the declaration relates to more than one assessment year, the wealth-tax in respect of each year should be shown separately] . . .

8 Wealth-tax paid before the date of declaration [Attach proof of payment] . ..

VERIFICATION

I, ... , *son/daughter/wife of
(name in block letters)

Shri . ... . . , solemnly declare that—
(name of *father/husband)

(*a*) the information given in this declaration is correct and complete to the best of my knowledge and belief,

(*b*) the value of all assets held by me through other persons and assets held by other persons which are to be included in computing my net wealth has been shown in this declaration,

(*c*) the value of assets held by any other person which is not to be included in computing my net wealth has not been shown in this declaration.

I further declare that I am making this declaration in my capacity as . .
(designation)
and that I am competent to make this declaration and verify it.

Place *Signature*

Date

---

‡The Wealth-tax chargeable in respect of net wealth/value declared has to be calculated in accordance with the provisions of the *Explanation* to sub-section (5) of section 15 of the Voluntary Disclosure of Income and Wealth Ordinance, 1975

*Score out whichever is not applicable

NOTES—1 Before signing the verification, the signatory should satisfy himself that the declaration is correct and complete in every respect

2 A declaration under section 15(1) of the Voluntary Disclosure of Income and Wealth Ordinance, 1975, cannot be made in relation to net wealth assessable for any assessment year for which a notice under section 14 or section 17 of the Wealth-tax Act, 1957, has been served on the declarant before the 8th October, 1975

3 So much of the value of assets as has been assessed in any assessment for the relevant assessment year made by the Wealth-tax Officer before the date on which the declaration is made should *not* be shown in this declaration

4 This declaration should be submitted in duplicate

NOTIFICATIONS PERTAINING TO VOLUNTARY DISCLOSURE

(Notification No. G S R 533(E), dated 20th October 1975)

In pursuance of sub-section (3) of section 3 of the *Voluntary Disclosure of Income and Wealth Ordinance, 1975 (XV of 1975), the Government of India hereby notifies the issue of 5-3/4 per cent Bonds, 1985. The proceeds of these Bonds will be utilised by the Government for projects of high social priority.

2. **Limit on investment.**—Investment in these Bonds will be made by persons to the extent of 5 per cent of their voluntarily disclosed income as declared under section 3(1) of the aforesaid Ordinance or 2 5 per cent of the amount of net wealth or value declared under section 15(1) thereof, as the case may be

3. 5-3/4 per cent Bonds, 1985, issued at Rs. 100 00 per cent. and redeemable at par on the 20th October, 1985.

(*i*) Price The issue price will be Rs. 100.00 for every Rs 100/- (nominal)

(*ii*) Date of issue The Bonds will be issued from the 20th October, 1975.

(*iii*) Date of repayment The Bonds will be repaid at par on the 20th October, 1985

4. **Interest.**—The Bonds will bear interest at the rate of 5-3/4 per cent per annum with effect from the date of issue of the Bonds Interest will be paid half-yearly on the 20th of April and 20th of October, the first payment of interest being for the period from the date of issue of the Bonds to the 19th April, 1976 (inclusive) The interest will, subject to the provisions of paragraphs 6 and 7 below, be liable to tax under the Income-tax Act, 1961

5. **Payment of interest.**—Interest on the Bonds will be remitted to the holders by the Public Debt Office of the Reserve Bank of India, Byculla (Bombay)

6. **Refund of tax deducted at source.**—Refunds of tax deducted at the time of payment of interest (at rates prescribed by the annual Finance Acts) will be obtainable by holders of the Bonds who are liable to tax at a rate lower than the rate at which tax was deducted A holder who is liable to tax at a rate lower than the prescribed rate can obtain, on application, a certificate from the Income-tax Officer of the district, authorising payment of interest to him with deduction of tax at such lower rate as may be applicable to the holder

7. Interest on the Bonds together with interest on other previous Government securities and income from other approved investments will be exempt from income-tax subject to a limit of Rs 3,000 per annum and subject to the other provisions of section 80L of the Income-tax Act, 1961.

8. The value of investments in the Bonds now issued together with the value of other previous investments in Government securities and the other investments specified in section 5 of the Wealth-tax Act, 1957, will also be exempt from wealth-tax up to Rs 1,50,000

9. The Bonds will be issued in the form prescribed in the Notification of the Government of India in the Ministry of Finance (Department of Economic Affairs) No G S R 534(E), dated the 20th October, 1975

10. **Transferability.**—The Bonds will be non-negotiable and cannot be sold, transferred, assigned or otherwise disposed of by the holder, but, subject to the provisions of any law which is for the time being in force, may pass to the legal heir(s) or successor(s) of the holder, as the case may be

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*This Ordinance has been replaced by the Voluntary Disclosure of Income and Wealth Act, 1976, which is printed *ante*

11. Application for Bonds.—Applications will be received at—

(*a*) Offices of the Reserve Bank of India at Ahmedabad, Bangalore, Bombay (Fort and Byculla), Calcutta, Hyderabad, Kanpur, Madras, Nagpur, New Delhi and Patna,

(*b*) Branches of the subsidiary banks of the State Bank of India conducting Government treasury work except at Hyderabad, and

(*c*) Branches of the State Bank of India at other places in India

12. Applications may be made in the form attached hereto and should be accompanied by the necessary payment in the form of cash or cheque or draft Cheques/drafts tendered at the office of the Reserve Bank of India, the State Bank of India or its subsidiary banks should be drawn in favour of the bank concerned at the place at which the application is tendered

FORM OF APPLICATION

I/We .. herewith tender cash/
(full name(s) in block letters)
cheque/draft for Rs . Rs . .
(in words)
for investment in Government of India 5-3/4 per cent Bonds, 1985 The Bonds and the half-yearly interest thereon may please be sent to me/us at the address mentioned below

The amount tendered represents 5 per cent of the income and/or 2-1/2 per cent of the amount of net wealth or value declared by me/us under the Voluntary Disclosure of Income and Wealth Ordinance, 1975

Signature

Name in full

Dated . . *19*

Address

NOTES—(1) The application should be in multiples of Rs 10 Cheque/draft should be drawn in favour of the bank receiving the application and at the place at which the application is tendered

(2) The application shall be signed—

(*a*) where the declarant is an individual, by the individual himself, where such individual is absent from India, by the individual concerned or by some person duly authorised by him in this behalf, and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf,

(*b*) where the declarant is a Hindu undivided family, by the *karta*, and where the *karta* is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family,

(*c*) where the declarant is a company, by the managing director thereof, or where for any unavoidable reason such managing director is not able to sign the declaration, or where there is no managing director, by any director thereof,

(*d*) where the declarant is a firm, by the managing partner thereof, or where for any unavoidable reason such managing partner is not able to sign the declaration, or where there is no managing partner as such, by any partner thereof not being a minor,

(*e*) where the declarant is any other association, by any member of the association or the principal officer thereof, and

(*f*) where the declarant is any other person, by that person or by some person competent to act on his behalf

(3) The certificate in the form prescribed in the Notification of the Government of India, Ministry of Finance, Department of Economic Affairs, No G S.R. 534(E), dated the 20th October, 1975, in respect of the 5-3/4 per cent Bonds, 1985, will be issued in the name of the individual, *karta*, company, firm, association or other person, as the case may be

(4) If the application is made in the name of a registered body, the undernoted documents, if not already registered at the Public Debt Office, should be enclosed with the investment application —

(i) Certificate of Registration/Incorporation

(ii) Memorandum and Articles of Association or certified copies of the Rules and Regulations/Bye-laws of the body/company.

(iii) Certified copy of resolution in favour of the person authorised to deal in Government securities on behalf of the body/company

(*Notification No. G S.R 534(E), dated 20th October 1975*)

In exercise of the powers conferred by clause (*b*) of rule 4 of the Public Debt Rules, 1946, the Central Government hereby prescribes that the following shall be the form of a Government security for the purposes of sub-clause (*b*) of clause (*2*) of section 2 of the Public Debt Act, 1944 (XVIII of 1944), namely:

FORM

NOT TRANSFERABLE

(National Emblem)

Government of India

5-3/4 per cent. Bonds, 1985

No. .... Rs..... ....

This is to certify that ... . is entitled to receive from the President of India a sum of Rupees .... on the 20th day of October, 1985.

Interest at the rate of five and three quarter per cent. per annum will be paid on the aforesaid amount from the date of issue of this Certificate to the date on which the same shall become payable as aforesaid, such interest to be paid by equal half-yearly payments on the 20th day of April and 20th day of October in every year and subject to the terms and conditions laid down in the Government of India, Ministry of Finance (Department of Economic Affairs), Notification No. G.S.R. 533(E), dated the 20th October, 1975

This Certificate is non-negotiable and cannot be sold, transferred, assigned or otherwise disposed of by the holder to any other person.

By Order of the President of India
Governor,
Reserve Bank of India
for Manager

Public Debt Office,
Reserve Bank of India,
Byculla, Bombay.

Date of Issue

(Reverse)

Instructions regarding inscribed stock (book debt) of the Government of India 5-3/4 per cent. Bonds, 1985, registered at the Public Debt Office of the Reserve Bank of India, Byculla (Bombay)

1 Date of issue of this Certificate will be the date of tender by cash or cheque or draft.

2. Production of this Certificate will not be necessary for collection of half-yearly interest on the Certificate, which will be remitted to the registered address of the holder by warrants issued by the Public Debt Office of the Reserve Bank of India at Byculla, Bombay

3 Any change in the registered address of the holder should be notified to the Public Debt Office of the Reserve Bank of India at Byculla, Bombay, furnishing full particulars of the Bond, *viz.*, 5-3/4 per cent Bonds, 1985, and the number and amount of the Certificate, as mentioned on the obverse

4. In the event of the title to Bonds devolving by succession on the legal heir(s) or successor(s) of a holder, a fresh certificate will be issued to the heir(s) or the successor(s) subject to the provisions of the Public Debt Act, 1944, and any other law, which may for the time being be in force.

(Notification No. G S R 535(E), dated 20th October 1975)

In exercise of the powers conferred by sub-section (3) of section 3 of the *Voluntary Disclosure of Income and Wealth Ordinance, 1975 (XV of 1975), the Central Government hereby notifies that the security prescribed under clause *(b)* of rule 4 of the Public Debt Rules, 1946, in the Ministry of Finance (Department of Economic Affairs), Notification No G S R 534(E), dated the 20th October, 1975, shall be the security for the purposes of sub-section (3) of section 3 of the said Ordinance.

*This Ordinance has been replaced by the Voluntary Disclosure of Income and Wealth Act, 1976, which is printed *ante*

Provided further that the amount recoverable from such agent or person at time of final settlement shall not exceed the amount specified in such certificate exc to the extent to which such agent or person may at such time have in his hai additional assets of such non-resident person]

R 34 (2) Where a person not resident [14][or not ordinarily resident] in [15][the taxa territories] [16]* * carries on business with a person resident in [15][the taxable te tories], and it appears to the Income-tax Officer [17]* * that owing to the cl connection [18][between such persons the course of business is so arranged that business done by the resident person with the person not resident or not ordinai resident] produces to the resident either no profits or less than the ordinary pro which might be expected to arise in that business, the profits derived therefrom which may reasonably be deemed to have been derived therefrom, shall be chargea to income-tax in the name of the resident person who shall be deemed to be, for all purposes of this Act, the assessee in respect of such income-tax.

[18][(3) In the case of a business of which all the operations are not carried out [15][the taxable territories], the profits and gains of the business deemed under t section to accrue or arise in [15][the taxable territories] shall be only such profits a gains as are reasonably attributable to that part of the operations carried out [15][the taxable territories]]

43. Agent to include persons treated as such.—Any person employed by or behalf of a person residing out of [15][the taxable territories], or having any busin connection with such person, or through whom such person is in the receipt of a income, profits or gains upon whom the Income-tax Officer has caused a notice to served of his intention of treating him as the agent of the non-resident person sh for all the purposes of this Act, be deemed to be such agent.

[19][Provided that where transactions are carried on in the ordinary course of busin through a broker in [15][the taxable territories] in such circumstances that the brol does not in respect of such transactions deal directly with or on behalf of a non-reside principal but deals with or through a non-resident broker who is carrying on su transactions in the ordinary course of his business and not as a principal such fir mentioned broker shall not be deemed to be an agent under this section in respect such transactions]

Provided [19][further] that no person shall be deemed to be the agent of a no resident person, unless he has had an opportunity of being heard by the Income-t Officer as to his liability

[20][*Explanation* —A person, whether residing in or out of [15][the taxable territorie who acquires, after the 28th day of February, 1947, whether by sale, exchange transfer, a capital asset in [15][the taxable territories] from a person residing out [15][the taxable territories] shall, for the purposes of charging to tax the capital ga arising from such sale, exchange or transfer, be deemed to have a business connectic within the meaning of this section, with such person residing out of [15][the taxal territories]]

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14 Inserted by s 47, Indian I T (Amendment) Act, 1939.
15 Substituted for "British India" by Adaptation of Laws Order, 1950
16 "And not being a British subject or a firm or company constituted within His Majest Dominions or a branch thereof" omitted by s 47, Indian I T (Amendment) Act, 1939
17 "Or the Assistant Commissioner, as the case may be" omitted, *ibid*
18 Substituted, *ibid*
19 Inserted by s 48, Indian I T (Amendment) Act, 1939
20 Inserted by s 13, I T and E P T (Amendment) Act, 1947

[21][44. **Liability in case of firm or association discontinued or dissolved.**—(1) Where any business, profession or vocation carried on by a firm or other association of persons has been discontinued or where a firm or other association of persons is dissolved, the Income-tax Officer shall make an assessment of the total income of the firm or other association of persons as such as if no such discontinuance or dissolution had taken place

(2) If the Income-tax Officer, the Appellate Assistant Commissioner or the Appellate Tribunal in the course of any proceedings under this Act in respect of any such firm or other association of persons as is referred to in sub-section (1) is satisfied that the firm or other association is guilty of any of the acts specified in clause (*a*) or clause (*b*) or clause (*c*) of sub-section (1) of section 28, he or it may impose or direct the imposition of a penalty in accordance with the provisions of that section

(3) Every person who was at the time of such discontinuance or dissolution a partner of the firm or a member of the association, as the case may be, shall be jointly and severally liable for the amount of tax or penalty payable, and all the provisions of Chapter IV so far as may be, shall apply to any such assessment or imposition of penalty]

[22][CHAPTER V-A

SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES OF SHIPPING

44A. Liability to tax of occasional shipping.—The provisions of this Chapter shall, notwithstanding anything contained in the other provisions of this Act, apply for the purpose of the levy and recovery of tax in the case of any person who resides out of [23][the taxable territories] and carries on business in [23][the taxable territories] in any year as the owner or charterer of a ship (such person hereinafter in this Chapter being referred to as the principal), unless the Income-tax Officer is satisfied that there is an agent of such principal from whom the tax will be recoverable in the following year under the other provisions of this Act

44B. Return of profits and gains.—(1) Before the departure from any port in [23][the taxable territories] of any ship in respect of which the provisions of this Chapter apply, the master of the ship shall prepare and furnish to the Income-tax Officer a return of the full amount paid or payable to the principal, or to any person on his behalf, on account of the carriage of all passengers, live-stock or goods shipped at that port since the last arrival of the ship thereat

(2) On receipt of the return, the Income-tax Officer shall assess the amount referred to in sub-section (1), and for this purpose may call for such accounts or documents as he may require, and [24][one-sixth] of the amount so assessed shall be deemed to be the amount of the profits and gains accruing to the principal on account of the carriage of the passengers, live-stock and goods shipped at the port

(3) When the profits and gains have been assessed as aforesaid, the Income-tax Officer shall determine the sum payable as tax thereon at the rate for the time being

[21] Substituted by s 49, Indian I T (Amendment) Act, 1939, and further substituted by s 11, F Act, 1958, w e f 1-4-1958
[22] Inserted by s 3, Indian I T (Further Amendment) Act, 1923
[23] Substituted for "British India" by Adaptation of Laws Order, 1950
[24] Substituted for "one-twentieth" by s 3, F Act, 1950, w e f 1-4-1950

applicable to the total income of a company, and such sum shall be payable by the master of the ship, and a port-clearance shall not be granted to the ship until the Customs-collector, or other officer duly authorised to grant the same, is satisfied that the tax has been duly paid

44C. **Adjustment.**—Nothing in this Chapter shall be deemed to prevent a principal from claiming, [25][in the year] following that in which any payment has been made on his behalf under this Chapter, that an assessment be made of his total income in the previous year, and that the tax payable on the basis thereof be determined in accordance with the other provisions of this Act, and, if he so claims, any such payment as aforesaid shall be treated as a payment in advance of the tax and the difference between the sum so paid and the amount of tax found payable by him shall be paid by him or refunded to him, as the case may be]

[1][CHAPTER V-B

SPECIAL PROVISIONS RELATING TO AVOIDANCE OF LIABILITY TO INCOME-TAX AND SUPER-TAX

44D Avoidance of income-tax by transactions resulting in the transfer of income to persons resident or ordinarily resident abroad.—(1) Where any person has, by means of a transfer of assets, by virtue or in consequence whereof, either alone or in conjunction with associated operations, any income which if it were the income of such person would be chargeable to income-tax becomes payable to a person not resident or to a person resident but not ordinarily resident in [2][the taxable territories], acquired any rights by virtue or in consequence of which he has within the meaning of this section power to enjoy such income, whether forthwith or in the future, that income shall, whether it would or would not have been chargeable to income-tax apart from the provisions of this section, be deemed to be income of such first-mentioned person for all the purposes of this Act

(2) Where any person receives or is entitled to receive, whether before or after any transfer of assets by virtue or in consequence whereof either alone or in conjunction with associated operations any income becomes payable to a person not resident or resident but not ordinarily resident in [2][the taxable territories], any sum paid or payable by way of a loan or repayment of a loan or any other sum, being a sum which is not paid or payable for full consideration in money or money's worth, paid or payable otherwise than as income, such income shall, whether it would or would not have been chargeable to income-tax apart from the provisions of this section, be deemed to be the income of the first-mentioned person for all the purposes of this Act

(3) Sub-sections (1) and (2) shall not apply if such first-mentioned person shows to the satisfaction of the Income-tax Officer either—

(*a*) that neither the transfer nor any associated operation had for its purpose or for one of its purposes the avoidance of liability to taxation, or

(*b*) that the transfer and all associated operations were bona fide commercial transactions and were not designed for the purpose of avoiding liability to taxation

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[25] Substituted for "in any year" by s 50, Indian I T (Amendment) Act, 1939
[1] Inserted by s 51, *ibid*
[2] Substituted for "British India" by Adaptation of Laws Order, 1950

(4) For the purposes of this section, an "associated operation" means, in relation to any transfer, an operation of any kind effected by any person in relation to any of the assets transferred or any assets representing whether directly or indirectly any of the assets transferred, or to the income arising from any such assets, or to any assets representing whether directly or indirectly the accumulations of income arising from any such assets

(5) A person shall, for the purposes of this section, be deemed to have power to enjoy income of a person not resident, or resident but not ordinarily resident, in [3][the taxable territories], if—

(*a*) the income is in fact so dealt with by any person as to be calculated at some point of time and, whether in the form of income or not, to enure for the benefit of the first-mentioned person, or

(*b*) the receipt or accrual of the income operates to increase the value to such first-mentioned person of any assets held by him or for his benefit, or

(*c*) such first-mentioned person receives or is entitled to receive at any time any benefit provided or to be provided out of that income or out of moneys which are or will be available for the purpose by reason of the effect or successive effects of the associated operations on that income and on any assets which represent that income, or

(*d*) such first-mentioned person has power by means of the exercise of any power of appointment or power of revocation or otherwise to obtain for himself, whether with or without the consent of any other person, the beneficial enjoyment of the income, or

(*e*) such first-mentioned person is able, in any manner whatsoever and whether directly or indirectly, to control the application of the income

(6) In determining whether a person has power to enjoy income within the meaning of this section, regard shall be had to the substantial result and effect of the transfer and any associated operations, and all benefits which may at any time accrue to such person as a result of the transfer and any associated operations shall be taken into account irrespective of the nature or form of the benefits

(7) For the purposes of this section—

(*a*) the expression "assets" includes property or rights of any kind, and the expression "transfer" in relation to rights includes the creation of those rights,

(*b*) the expression "benefit" includes a payment of any kind,

(*c*) references to income of a person not resident or of a person not ordinarily resident in [3][the taxable territories] shall, where the amount of the income of a company for any year or period has been deemed to have been distributed under sub-section (1) of section 23A, include references to so much of the income of the company for that year or period as is equal to the amount deemed to have been distributed to that person,

(*d*) references to assets representing any assets, income or accumulations of income include references to shares in or obligation of any company to which, or obligation of any other person to whom, those assets, that income or those accumulations are or have been transferred,

(*e*) any body corporate incorporated outside [3][the taxable territories] shall be treated as if it were resident out of [3][the taxable territories] whether it is so resident or not

[3] Substituted for "British India" by Adaptation of Laws Order, 1950

199. Credit for tax deducted.—Any deduction made in accordance with the provisions of [17][sections 192 to 194, section 194A, [18][section 194B, section 194C,] [19][section 194D] and section 195] and paid to the Central Government shall be treated as a payment of [20][tax] on behalf of the person from whose income the deduction was made, or of the owner of the security or of the shareholder, as the case may be, and credit shall be given to him for the amount so deducted on the production of the certificate furnished under section 203 in the assessment [21][(including a provisional assessment under section 141A)], if any, made for the immediately following assessment year under this Act

[22][Provided that—

(*i*) in a case where such person or owner or shareholder is a person whose income is included under the provisions of section 60, section 61, section 64, section 93 or section 94 in the total income of another person, the payment shall be deemed to have been made on behalf of, and the credit shall be given to, such other person,

R 30A (*ii*) in any other case, where the dividend on any share is assessable as the income of a person other than the shareholder, the payment shall be deemed to have been made on behalf of, and the credit shall be given to, such other person in such circumstances as may be prescribed

Provided further that where any security or share in a company is owned jointly by two or more persons not constituting a partnership, the payment shall be deemed to have been made on behalf of, and the credit shall be given to, each such person in the same proportion in which the interest on such security or dividend on such share is assessable as his income]

R 30 **200. Duty of person deducting tax.**—Any person deducting any sum in accordance with the provisions of [17][sections 192 to 194, section 194A, [18][section 194B, section 194C,] [19][section 194D] and section 195] shall pay within the prescribed time, the sum so deducted to the credit of the Central Government or as the Board directs

201 Consequences of failure to deduct or pay.—(1) If any such person and in the cases referred to in section 194, the principal officer and the company of which he is the principal officer does not deduct or after deducting fails to pay the tax as required by or under this Act, he or it shall, without prejudice to any other consequences which he or it may incur, be deemed to be an assessee in default in respect of the tax

Provided that no penalty shall be charged under section 221 from such person, principal officer or company unless the Income-tax Officer is satisfied that such person or principal officer or company, as the case may be, has [23][without good and sufficient reasons] failed to deduct and pay the tax

R 119A [24][(1A) Without prejudice to the provisions of sub-section (1), if any such person, principal officer or company as is referred to in that sub-section does not deduct or after deducting fails to pay the tax as required by or under this Act, he or it shall be liable to pay simple interest at [25][twelve] per cent per annum on the amount of such

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17 Substituted for "sections 192 to 195" by s 30, F (No 2) Act, 1967, w e f 1-4-1967
18 Inserted by s 30, F Act, 1972, w e f 1-4-1972
19 Inserted by s 19, F Act, 1973, w e f 1-4-1973
20 Substituted for "income-tax or super-tax, as the case may be," by s 49, F Act, 1965, w e f 1-4-1965
21 Inserted by s 15, F Act, 1968, w e f 1-4-1968
22 Retrospectively substituted, *ibid*
23 Substituted for "wilfully" by s 26, F Act, 1966, w e f 1-4-1966
24 Inserted, *ibid*, w e f 1-4-1966
25 "Nine" substituted for "six" by s 4, Taxation Laws (Amendment) Act, 1967, w e f 1-10-1967, and "twelve" for "nine" by s 25, F Act, 1972, w e f 1-4-1972 See p 314, f n 20

period specified in the notice, such particulars as he considers necessary for the purposes of this section and for the purpose of discovering whether tax has been borne in respect of the interest on all those securities, and, if that person without reasonable excuse fails to comply with the notice, he shall be liable to a penalty not exceeding five hundred rupees and to a further penalty of the like amount for every day after the infliction of such penalty during which the failure continues.

44F. Avoidance of tax by sales cum-dividend.—(1) Any person upon whom notice is served by the Income-tax Officer requiring him to furnish a statement of particulars relating to any securities in which, at any time during the period specified in the notice he has had any beneficial interest, and in respect of which, within such period, either no income was received by him, or the income received by him was less than the sum to which the income would have amounted if the income from such securities had accrued from day to day and been apportioned accordingly, shall, whether an assessment to income-tax or super-tax in respect of his total income has or has not been made for the relevant year or years of assessment, furnish such a statement and such particulars in the form and within the time (not being less than twenty-eight days) required by the notice.

(2) If it appears to the Income-tax Officer by reference to all the circumstances in relation to the securities of any such person (including circumstances with respect to sales, purchases, dealings, contracts, arrangements, transfers, or any other transactions relating to such securities) that such person has thereby avoided or would avoid more than ten per cent of the amount of the income-tax or super-tax for any year which would have been payable in his case in respect of the income from those securities if the income had been deemed to accrue from day to day and had been apportioned accordingly, and the income so deemed to have been apportioned to him had been treated as part of his total income from all sources for the purposes of income-tax or super-tax, then those securities shall be deemed to be securities to which sub-section (3) applies

(3) For the purposes of assessment to income-tax or super-tax in the case of any such person, the income from any securities to which this sub-section applies shall be deemed to accrue from day to day, and in the case of the sale or transfer of any such securities by or to him shall be deemed to have been received as and when it is deemed to have accrued

Provided that this section shall not apply if such person proves to the satisfaction of the Income-tax Officer that the avoidance of income-tax or super-tax was exceptional and not systematic and that there was not in his case in any of the three preceding years any such avoidance of income-tax or super-tax, or that the provisions of section 44E have been applied in his case in respect of such income

(4) If any person fails to furnish any statement or particulars required under this section, or if the Income-tax Officer is not satisfied with any statement or particulars furnished under this section, the Income-tax Officer may make an estimate of the amount of the income which, under the foregoing provisions of this section, is to be deemed to form part of the person's total income for the purposes of income-tax or super-tax

(5) If any person without reasonable excuse fails to furnish any statement or particulars required under this section, he shall be liable to a penalty not exceeding five hundred rupees, and to a further penalty of the like amount for every day after the infliction of such penalty during which the failure continues

(6) For the purpose of this section the expression "securities" includes stocks and shares]

CHAPTER VI

RECOVERY OF TAX AND PENALTIES

45. Tax when payable.—Any amount specified as payable in a notice of demand [4][under sub-section [5][(3)] of section 23A or] under section 29 or an order under section 31 [6]* * or section 33, shall be paid within the time, at the place and to the person mentioned in the notice or order, or if a time is not so mentioned, then on or before the first day of the second month following the date of the service of the notice or order, and any assessee failing so to pay shall be deemed to be in default, provided that, when an assessee has presented an appeal under section 30 [7]* *, the Income-tax Officer may in his discretion treat the assessee as not being in default as long as such appeal is undisposed of

[8][Provided further that where an assessee has been assessed in respect of income arising outside [9][the taxable territories] in a country the laws of which prohibit or restrict the remittance of money to [9][the taxable territories], the Income-tax Officer shall not treat the assessee as in default in respect of that part of the tax which is due in respect of that amount of his income which by reason of such prohibition or restriction cannot be brought into [9][the taxable territories], and shall continue to treat the assessee as not in default in respect of such part of the tax until the prohibition or restriction is removed

Explanation —For the purposes of this section income shall be deemed to have been brought into [9][the taxable territories] if it has been utilized or could have been utilized for the purposes of any expenditure actually incurred by the assessee without [9][the taxable territories] or if the income whether capitalized or not has been brought into [9][the taxable territories] in any form]

46. Mode and time of recovery.—(1) When an assessee is in default in making a payment of income-tax, the Income-tax Officer may in his discretion direct that, in addition to the amount of the arrears, a sum not exceeding that amount shall be recovered from the assessee by way of penalty

[10][(1A) For the purposes of sub-section (1), the Income-tax Officer may direct the recovery of any sum less than the amount of the arrears and may enhance the sum so directed to be recovered from time to time in the case of a continuing default, so however that the total sum so directed to be recovered shall not exceed the amount of the arrears payable]

(2) The Income-tax Officer may forward to the Collector a certificate under his signature specifying the amount of arrears due from an assessee, and the Collector, on receipt of such certificate, shall proceed to recover from such assessee the amount specified therein as if it were an arrear of land revenue

[11][Provided that without prejudice to the powers conferred by this sub-section, the Collector shall, for the purpose of recovering the amount specified in the certificate, have also all the powers which—

(*a*) a Collector has under the Revenue Recovery Act, 1890 (I of 1890),

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[4] Inserted by s 8, Indian I T (Amendment) Act, 1930
[5] Substituted for "(4)" by s 52, Indian I T (Amendment) Act, 1939
[6] "Or section 32" omitted by s 23, Indian I T (Amendment) Act, 1941
[7] "Or under section 33A" omitted by s 52, Indian I T (Amendment) Act, 1939
[8] Inserted, *ibid*
[9] Substituted for "British India" by Adaptation of Laws Order, 1950
[10] Inserted by s 8, Indian I T (Amendment) Act, 1928
[11] Inserted by s 16, Indian I T (Second Amendment) Act, 1933, and retrospectively substituted by s 7, Taxation Laws (Amendment) Act, 1960

(*b*) a Civil Court has under the Code of Civil Procedure, 1908 (V of 1908), for the purpose of the recovery of an amount due under a decree]

(3) In any area with respect to which the Commissioner has directed that any arrears may be recovered by any process enforceable for the recovery of an arrear of any municipal tax or local rate imposed under any enactment for the time being in force in any part of the [12][State], the Income-tax Officer may proceed to recover the amount due by such process

(4) The Commissioner may direct by what authority any powers or duties incident under any such enactment as aforesaid to the enforcement of any process for the recovery of a municipal tax or local rate shall be exercised or performed when that process is employed under sub-section (3)

(5) If any assessee is in receipt of any income chargeable under the head "Salaries" the Income-tax Officer may require any person paying the same to deduct from any payment subsequent to the date of such requisition any arrears due from such assessee, and such person shall comply with any such requisition, and shall pay the sum so deducted to the credit of the [13][Central Government], or as the [14][Central Board of Revenue] directs

[15][(5A) The Income-tax Officer may at any time or from time to time, by notice in writing (a copy of which shall be forwarded to the assessee at his last address known to the Income-tax Officer) require any person from whom money is due or may become due to the assessee or any person who holds or may subsequently hold money for or on account of the assessee to pay to the Income-tax Officer, either forthwith upon the money becoming due or being held or at or within the time specified in the notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the amount due by the tax-payer in respect of arrears of income-tax and penalty or the whole of the money when it is equal to or less than that amount

The Income-tax Officer may at any time or from time to time amend or revoke any such notice or extend the time for making any payment in pursuance of the notice

Any person making any payment in compliance with a notice under this sub-section shall be deemed to have made the payment under the authority of the assessee and the receipt of the Income-tax Officer shall constitute a good and sufficient discharge of the liability of such person to the assessee to the extent of the amount referred to in the receipt

Any person discharging any liability to the assessee after receipt of the notice referred to in this sub-section shall be personally liable to the Income-tax Officer to the extent of the liability discharged or to the extent of the liability of the assessee for tax and penalties, whichever is less

If the person to whom a notice under this sub-section is sent fails to make payment in pursuance thereof to the Income-tax Officer, further proceedings may be taken by and before the Collector on the footing that the Income-tax Officer's notice has the same effect as an attachment by the Collector in exercise of his powers under the proviso to sub-section (2) of section 46

Where a person to whom a notice under this sub-section is sent objects to it on the ground that the sum demanded or any part thereof is not due to the assessee or that he does not hold any money for or on account of the assessee, then, nothing

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[12] Substituted for "Province" by Adaptation of Laws Order 1950

[13] Substituted for "Government of India" by Government of India (Adaptation of Indian Laws) Order, 1937

[14] Substituted for "Board of Inland Revenue" by s 4 and Sch , Central Board of Revenue Act, 1924

[15] Inserted by s 9, I T and B P T (Amendment) Act, 1948, w e f 30-3-1948

contained in this section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, to the Income-tax Officer]

[16][(6) If the recovery of income-tax in any area has been entrusted to a [17][State] Government under [18][article 258(1) of the Constitution], the [17][State] Government may direct with respect to that area or any part thereof, that income-tax shall be recovered therein with, and as an addition to, any municipal tax or local rate, by the same person and in the same manner as the municipal tax or local rate is recovered]

(7) Save in accordance with the provisions of sub-section (1) of section 42, [19][or of the proviso to section 45], no proceedings for the recovery of any sum payable under this Act shall be commenced after the expiration of one year from the last day of [20][the financial year] in which any demand is made under this Act

[21][Provided that the period of one year herein referred to shall—

(i) where an assessee has been treated as not being in default under section 45 as long as his appeal is undisposed of, be reckoned from the date on which the appeal is disposed of,

(ii) where recovery proceedings in any case have been stayed by any order of a Court, be reckoned from the date from which the order is withdrawn,

(iii) where the date of payment of tax has been extended by an Income-tax authority, be reckoned from the date up to which the time for payment had been extended,

(iv) where the sum payable is allowed to be paid by instalments, *from the date on which the last of such instalments was due

Provided further that nothing in the foregoing proviso shall have the effect of reducing the period within which proceedings for recovery can be commenced, namely, after the expiration of one year from the last day of the financial year in which the demand is made

Explanation —A proceeding for the recovery of any sum shall be deemed to have commenced within the meaning of this section, if some action is taken to recover the whole or any part of the sum within the period hereinbefore referred to, and for the removal of doubts it is hereby declared that the several modes of recovery specified in this section are neither mutually exclusive, nor affect in any way any other law for the time being in force relating to the recovery of debts due to Government, and it shall be lawful for the Income-tax Officer, if for any special reasons to be recorded he so thinks fit, to have recourse to any such mode of recovery notwithstanding that the tax due is being recovered from an assessee by any other mode]

[22][[23][(7A) For the purposes of this section, the expression "Collector" shall include—

(a) an additional Collector or any other officer authorised to exercise the powers of a Collector under any law for the time being in force in a State relating to land revenue, and

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[16] Substituted by Government of India (Adaptation of Indian Laws) Order, 1937
[17] Substituted for "Provincial" by Adaptation of Laws Order, 1950
[18] Substituted for "section 124(1) of the Government of India Act, 1935", *ibid*
[19] Inserted by s 53, Indian I T (Amendment) Act, 1939
[20] Substituted for "the year", *ibid*
[21] Substituted by s 21, Indian I T (Amendment) Act, 1953, w e f 1-4-1952
* The words "be reckoned" which should occur here seem to have been inadvertently omitted by the draftsman
[22] Sub-ss (8), (9) and (10) inserted by India (Adaptation of Income-tax, Profits Tax and Revenue Recovery Acts) Order, 1947
[23] Sub-ss (7A) and (8) retrospectively substituted for sub-s (8) by s 7, Taxation Laws (Amendment) Act, 1960

(*b*) a Collector in Pakistan

(8) The Income-tax Officer may forward a certificate under sub-section (2) to a Collector in Pakistan through the Central Board of Revenue of Pakistan if the assessee has property in the district of that Collector.]

(9) Where a Collector in [24][the taxable territories] receives through the Central Board of Revenue of India a certificate under the signature of an Income-tax Officer in Pakistan, the Collector shall proceed to recover the amount specified therein in the manner in which he would proceed to recover the amount specified in a certificate received from an Income-tax Officer in [24][the taxable territories], and shall remit any sum so recovered by him to the Income-tax Officer in Pakistan, after deducting his expenses in connection with the recovery proceedings

(10) The provisions of sub-sections (8) and (9) shall remain in force only so long as there are in force similar provisions in this Act as in force as part of the law of Pakistan or under any other similar Act forming part of the law of Pakistan for the recovery of tax by a Collector in Pakistan on receipt of a certificate from an Income-tax Officer in [24][the taxable territories]]

[25][**46A. Persons leaving India to obtain tax clearance certificate.**—(1) Subject to such exceptions as may be made by the Central Government, no person who is not domiciled in India, or who, even if domiciled in India at the time of his departure, has, in the opinion of an Income-tax authority, no intention of returning to India, shall leave the territory of India by land, sea or air unless he first obtains from such authority as may be appointed by the Central Government in this behalf (hereinafter in this section referred to as the "competent authority") a certificate stating that he has no liabilities under this Act, the Excess Profits Tax Act, 1940 (XV of 1940), or the Business Profits Tax Act, 1947 (XXI of 1947), or that satisfactory arrangements have been made for the payment of all or any of such taxes which are or may become payable by that person

Provided that if the competent authority is satisfied that such person intends to return to India, he may issue an exemption certificate either in respect of a single journey or in respect of all journeys to be undertaken by that person within such period as may be specified in the certificate

(2) If the owner or charterer of any ship or aircraft carrying persons from any place in the territory of India to any place outside the territory allows any person to whom sub-section (1) applies, to travel by such ship or aircraft without first satisfying himself that such person is in possession of a certificate as required by that sub-section, he shall be personally liable to pay the whole or any part of the amount of tax, if any, payable by such person as the Income-tax Officer may, having regard to the circumstances of the case, determine

Explanation—For the purposes of this sub-section the expressions "owner" and "charterer" include any representative, agent or employee empowered by the owner or charterer to allow persons to travel by the ship or aircraft

(3) In respect of any sum payable by the owner or charterer of any ship or aircraft under sub-section (2), the owner or charterer, as the case may be, shall be deemed to be an assessee in default within the meaning of sub-section (1) of section 46

(4) The Central Government may make rules for regulating any matter necessary for, or incidental to, the purpose of carrying out the provisions of this section.]

[24] Substituted for "British India" by Adaptation of Laws Order, 1950
[25] Inserted by s 22, Indian I.T (Amendment) Act, 1953, w e f 1-4-1952.

47. Recovery of penalties.—Any sum imposed by way of penalty under the provisions of sub-section (2) of section 25, section 28, [1][sub-section (6) of section 44E, sub-section (5) of section 44F] or sub-section (1) of section 46, [2][and any interest payable under the provisions of sub-section (4), (6), (7) or (8) of section 18A] shall be recoverable in the manner provided in this Chapter for the recovery of arrear of tax

CHAPTER VII

REFUNDS

Rr 36, 39, 41 [3][**48. Refunds.**—(1) If any individual, Hindu undivided family, company, local authority, firm or other association of persons, or any partner of a firm or member of an association individually satisfies the Income-tax Officer or other authority appointed by the Central Government in this behalf that the amount of tax paid by him or on his behalf or treated as paid on his behalf for any year exceeds the amount with which he is properly chargeable under this Act for that year, he shall be entitled to a refund of any such excess

(2) [4][The Appellate Assistant Commissioner or the Appellate Tribunal in the exercise of their appellate powers] if satisfied to the like effect shall cause a refund to be made by the Income-tax Officer of any amount found to have been wrongly paid or paid in excess

(3) Where income of one person is included under any provision of this Act in the total income of any other person such other person only shall be entitled to a refund under this section in respect of such income

(4) Nothing in this section shall operate to validate any objection or appeal which is otherwise invalid or to authorise the revision of any assessment or other matter which has become final and conclusive, or the review by any officer of a decision of his own which is subject to appeal or revision, or where any relief is specifically provided elsewhere in this Act, to entitle any person to any relief other or greater than that relief or to entitle any person to claim a refund of tax payable before the commencement of the Indian Income-tax (Amendment) Act, 1939, which he would not be entitled to claim but for the passing of that Act.]

48A. General power to make refunds.—*Omitted by s 56 of the Indian Income-tax (Amendment) Act, 1939*

Rr 40, 41 **49. Relief in respect of United Kingdom income-tax.**—*Omitted by s 10 of the Income-tax and Business Profits Tax (Amendment) Act, 1948, with effect from 30th March 1948*

[5][[6][**49A. Agreement for granting relief in respect of double taxation or for avoidance thereof.**—The Central Government may enter into an agreement—

(*a*) [7]* * with the Government of any country outside India for the granting of relief in respect of income on which have been paid both

[1] Inserted by s 54, Indian I T (Amendment) Act, 1939
[2] Inserted by s 12, Indian I T (Amendment) Act, 1944
[3] Substituted by s 55, Indian I T (Amendment) Act, 1939
[4] Substituted by s 91, *ibid*
[5] Ss 49A, 49B, 49C and 49D inserted by s 58, Indian I T (Amendment) Act, 1939
[6] Substituted for ss 49A and 49AA by s 3, F Act, 1953, w e f 1-4-1953 S 49AA inserted by India (Adaptation of Income-tax, Profits Tax and Revenue Recovery Acts) Order, 1947
[7] "With the Government of the State of Jammu and Kashmir or" omitted by s 2 and Sch, Taxation Laws (Extension to Jammu and Kashmir) Act, 1954

income-tax (including super-tax) under this Act and income-tax [8][in that country], or

(b) with the Government of any country outside India for the avoidance of double taxation of income, profits and gains under this Act and under the corresponding law in force in that country,

and may, by notification in the Official Gazette, make such provisions as may be necessary for implementing the agreement]

[9][**49B. Relief to shareholders in respect of agricultural income-tax attributable to dividends.**—Where a company pays to a shareholder any dividend out of its profits and gains which is assessed to agricultural income-tax by any State Government, the shareholder shall be entitled to a reduction from the tax payable by him under this Act, of a sum equal to—

(a) that proportion of the agricultural income-tax (including super-tax, if any) paid by the company as the amount of the dividend attributable to the profits of the company assessed to agricultural income-tax bears to its total profits assessed to agricultural income-tax, reduced by the amount of refund, if any, allowed to him by the State Government, or

(b) where the shareholder—

(i) is not a company, the amount of income-tax (but not super-tax) payable by him under this Act, and

(ii) is a company, twenty per cent ,

on that portion of the dividend which is attributable to the profits of the company assessed to agricultural income-tax,

whichever is less]

[10][**49BB. Relief to company in respect of dividend paid out of past taxed profits.**—(1) Where in respect of any previous year relevant to the assessment year commencing after the 31st day of March, 1960, an Indian company or a company which has made the prescribed arrangements for the declaration and payment of dividends within India, pays any dividend wholly or partly out of its profits and gains actually charged to income-tax for any assessment year ending before the 1st day of April, 1960, and deducts tax therefrom in accordance with the provisions of section 18, credit shall be given to the company against the income-tax, if any, payable by it on the profits and gains of the previous year during which the dividend is paid, of a sum calculated in accordance with the provisions of sub-section (2), and where the amount of credit so calculated exceeds the income-tax payable by the company as aforesaid, the excess shall be refunded

(2) The amount of income-tax to be given as credit under sub-section (1) shall be a sum equal to ten per cent of so much of the dividends referred to in sub-section (1) as are paid out of the profits and gains actually charged to income-tax for any assessment year ending before the 1st day of April, 1960

Explanation I—For the purposes of this section, the aggregate of the dividends declared by a company in respect of any previous year shall be deemed first to have come out of the distributable income of that previous year and the balance, if any, out of the undistributed part of the distributable income of one or more previous years immediately preceding that previous year as would be just sufficient to cover the amount of such balance and as has not likewise been taken into account for covering such balance of any other previous year

[8] Substituted for "in that State or in that country, as the case may be" by s 2 and Sch , Taxation Laws (Extension to Jammu and Kashmir) Act, 1954

[9] Substituted by s 25, Indian I T (Amendment) Act, 1941, and further substituted by s 14, F Act, 1959, w e f 1-4-1960, subject to the special provisions in s 3, F Act, 1960

[10] Inserted by s 12, F Act, 1960, w e f 1-4-1960

Explanation II—The "distributable income" of any previous year shall mean the total income assessed for that year as reduced by—

(*i*) the amount of income-tax and super-tax payable by the company in respect of the said total income;

(*ii*) the amount of any other tax levied under any law for the time being in force on the company by the Government or by a local authority in excess of the amount, if any, which has been allowed in computing the total income,

(*iii*) the amount paid to any charitable institution or fund to the extent to which it is exempt from tax under section 15B, and

(*iv*) in the case of a banking company, the amount actually transferred to a reserve fund under section 17 of the Banking Companies Act, 1949 (X of 1949),

and as increased by—

(*a*) any profits and gains or receipts of the company not included in its total income, and

(*b*) any amount attributable to any allowance made in computing the profits and gains of the company for purposes of assessment, which the company has not taken into account in its profit and loss account]

49C. Relief granted to a company to be deemed relief granted to shareholder.—*Omitted by s 15 of the Finance Act, 1959, with effect from 1st April 1960, subject to the special provisions in s 3 of the Finance Act, 1960*

[11][**49D. Relief in respect of incomes accruing or arising outside the taxable territories.**—(1) If any person who is resident in the taxable territories in any year proves that, in respect of his income which accrues or arises during that year without the taxable territories (and which is not deemed to accrue or arise in the taxable territories), he has paid in any country, with which there is no reciprocal arrangement for relief or avoidance of double taxation, income-tax, by deduction or otherwise, under the law in force in that country, he shall be entitled to the deduction from the Indian income-tax payable by him of a sum calculated on such doubly taxed income at the Indian rate of tax or the rate of tax of the said country, whichever is the lower

(2) The Central Government may, by notification in the Official Gazette, declare that the provisions of sub-section (1) shall also apply in relation to any such income accruing or arising in the United Kingdom and chargeable under this Act for the year ending on the 31st day of March, 1950, or for the year ending on the 31st day of March, 1951, or for the year ending on the 31st day of March, 1952.

[12][(3) If any person who is resident in the taxable territories in any year proves that in respect of his income which accrues or arises to him during that year in Pakistan he has paid in that country, by deduction or otherwise, tax payable to the Government under any law for the time being in force in that country relating to taxation of agricultural income, he shall be entitled to a deduction from the Indian income-tax payable by him—

(*a*) of the amount of the tax paid in Pakistan under any law aforesaid on such income which is liable to tax under this Act also, or

(*b*) of a sum calculated on that income at the Indian rate of tax,

whichever is less

(4) Sub-section (3) shall apply in relation to all assessments for the years subsequent to the year ending on the 31st day of March, 1948, and, notwithstanding

[11] Substituted by s 24, Indian I T (Amendment) Act, 1953, w e f 1-4-1952
[12] Inserted by s 23, F Act, 1956, w e f 1-4-1956

anything contained in section 50, a claim for refund in respect of any of the years ending on the 31st day of March of the years 1949 to 1952 inclusive, may be entertained if made before the 31st day of March, 1957]

Explanation—In this section,—

(*i*) the expression "Indian income-tax" means income-tax and super-tax charged in accordance with the provisions of this Act,

(*ii*) the expression "Indian rate of tax" means the rate determined by dividing the amount of Indian income-tax after deduction of any relief due under the other provisions of this Act but before deduction of any relief due under this section, by the total income,

(*iii*) the expression "rate of tax of the said country" means income-tax and super-tax actually paid in the said country in accordance with the corresponding laws of the said country after deduction of all reliefs due, but before deduction of any relief due in the said country in respect of double taxation, divided by the whole amount of the income assessed in the said country,

(*iv*) the expression "income-tax in relation to any country" includes any excess profits tax or business profits tax charged on the profits by the Government of that country and not by the Government of any part of that country or a local authority in that country]]

[13][**49E. Power to set off amount of refunds against tax remaining payable.**—Where under any of the provisions of this Act, a refund is found to be due to any person, the Income-tax Officer, [14][Appellate Assistant Commissioner] or Commissioner, as the case may be, may, in lieu of payment of the refund, set off the amount to be refunded, or any part of that amount against the tax, [15][interest or penalty], if any, remaining payable by the person to whom the refund is due]

[16][**49EE. Power to set off in certain cases moneys in the possession of Government against tax found due under assessments, etc., thereafter to be made.**—(1) Where in pursuance of any settlement relating to the assessment, reassessment or case of any person made or purported to have been made before the 17th day of January, 1959, whether under this Act or otherwise, any sum of money or any security for the payment of any sum of money has been paid or furnished by him, or on his behalf by any other person, no claim for the refund of any sum so paid or for the return of any security so furnished shall be entertained or allowed on the ground that the settlement is invalid—

(*a*) in any case where a notice under section 34 in respect of the income, profits or gains relating to the settlement aforesaid has been issued before the 17th day of January, 1959, and

(*b*) in any other case, for a period of two years from that date and, if during the period of the said two years any notice under section 34 is issued, pending the completion of the assessment, reassessment or settlement in pursuance of such notice,

and, accordingly, no application, suit or other legal proceeding for the refund of any such money or the return of any such security shall lie or be allowed to continue—

(*i*) pending the completion of the assessment, reassessment or settlement in pursuance of the notice referred to in clause (*a*), or

[13] Inserted as s 49A by s 19, Indian I T (Second Amendment) Act, 1933, and renumbered "49E" by s 59, Indian I T (Amendment) Act, 1939

[14] Substituted for "Assistant Commissioner" by s 59, Indian I T (Amendment) Act, 1939

[15] Inserted by s 25, Indian I T (Amendment) Act, 1953, w e f 1-4-1952

[16] Inserted by s 3, Indian I T (Amendment) Act, 1959

(ii) during the period of two years referred to in clause (*b*) or pending the completion of the assessment, reassessment or settlement in pursuance of the notice referred to in that clause

(2) The Income-tax Officer, Appellate Assistant Commissioner or the Commissioner, as the case may be, may set off the amount referred to in sub-section (1) or the amount of the security referred to in that sub-section which may be realised for the purpose against the tax, interest, penalty or any other sum which may become payable by reason of any assessment, reassessment or settlement made in pursuance of the notice referred to in clause (*a*) of that sub-section or in pursuance of any such notice issued within the period of two years referred to in clause (*b*) of that sub-section

(3) In computing the period of limitation prescribed for any legal proceeding in relation to any such sum or security aforesaid, the time during which any such proceedings cannot be instituted by reason of the provisions contained in sub-section (1) shall be excluded]

[17][**49F. Power of representative of deceased person or person disabled to make claim on his behalf.**—Where through death, incapacity, bankruptcy, liquidation or other cause, a person who would but for such cause have been entitled to a refund under any of the provisions of this Act, or to make a claim under section 48 [18]* * or 49, is unable to receive such refund or to make such claim, his executor, administrator or other legal representative, or the trustee or receiver, as the case may be, shall be entitled to receive such refund or to make such claim for the benefit of such person or his estate]

50. Limitation of claims for refund.—No claim to any refund of income-tax [19][or super-tax] under this Chapter shall be allowed, unless it is made within [20][four years from the last day of the financial year commencing next after the expiry of the previous year in which the income arose, accrued or was received or was deemed to have arisen, accrued or been received or was brought into [21][the taxable territories]

Provided that where the claim is to a refund of income-tax or super-tax paid prior to the commencement of the Indian Income-tax (Amendment) Act, 1939, the claim shall not be allowed unless it is made within one year from the last day of the year in which the tax was recovered or before the last day of the financial year commencing after the expiry of the previous year as defined in clause (*11*) of section 2 in which the income arose on which the tax was recovered, whichever period may expire later]

[22][Provided [23][further] that a claim to refund under section 49 [23][of tax paid prior to the commencement of the Indian Income-tax (Amendment) Act, 1939], may be admitted after the period of limitation herein prescribed, when the applicant satisfies the Commissioner, or an Assistant Commissioner of Income-tax specially empowered in this behalf by the Central Board of Revenue, that he had sufficient cause for not making the claim within such period]

50A. Appeal against refusal of refund.—*Omitted by s 62 of the Indian Income-tax (Amendment) Act, 1939*

[17] Inserted as s 49B by s 19, Indian I T (Second Amendment) Act, 1933; and renumbered "49F" by s 60, Indian I T (Amendment) Act, 1939
[18] "Or 48A" omitted by s 60, Indian I T (Amendment) Act, 1939
[19] Inserted by s 61, Indian I T (Amendment) Act, 1939
[20] Substituted, ibid
[21] Substituted for "British India" by Adaptation of Laws Order, 1950
[22] Inserted by s 8, Indian I T (Second Amendment) Act, 1930
[23] Inserted by s 61, Indian I T (Amendment) Act, 1939

CHAPTER VIII

OFFENCES AND PENALTIES

51. Failure to make payments or deliver returns or statements or allow inspection.—If a person fails without reasonable cause or excuse—

(*a*) to deduct and pay any tax as required by section 18 or under sub-section (5) of section 46,

(*b*) to furnish a certificate required by sub-section (9) of section 18 [24]* * to be furnished,

(*c*) to furnish in due time any of the returns mentioned in [25][section 19A], [1][section 20A], section 21, [2][sub-section (2) of] section 22, or section 38,

(*d*) to produce, or cause to be produced, on or before the date mentioned in any notice under sub-section (4) of section 22, such accounts and documents as are referred to in the notice,

(*e*) to grant inspection or allow copies to be taken in accordance with the provisions of section 39,

he shall, on conviction before a Magistrate, be punishable with fine which may extend to ten rupees for every day during which the default continues

52. False statement in declaration.—If a person makes a statement in a verification mentioned in [3][section 19A or] [4][section 20A [5][or section 21] or] section 22 [6][or sub-section (2) of section 26A] or sub-section (3) of section 30 [7][or sub-section (3) of section 33] [8]* *, [9][or furnishes a certificate under sub-section (9) of section 18,] which is false, and which he either knows or believes to be false, or does not believe to be true, he shall [10][be punishable, on conviction before a Magistrate, with simple imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both]

53. Prosecution to be at instance of Inspecting Assistant Commissioner.—(1) A person shall not be proceeded against for an offence under section 51 or section 52 except at the instance of the [11][Inspecting Assistant Commissioner]

[12][(2) The Inspecting Assistant Commissioner may either before or after the institution of proceedings compound any such offence]

54. Disclosure of information by a public servant.—(1) All particulars contained in any statement made, return furnished or accounts or documents produced under the provisions of this Act, or in any evidence given, or affidavit or deposition made, in the course of any proceedings under this Act other than proceedings under this Chapter, or in any record of any assessment proceeding, or any proceeding relating

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24 "Or by section 20" omitted by s 16, F Act, 1959, w e f 1-4-1959, subject to the special provisions in s 3, F Act, 1960

25 Inserted by s 3, Indian I T (Amendment) Act, 1926

1 Inserted by s 21, Indian I T (Second Amendment) Act, 1933

2 Inserted by s 63, Indian I T (Amendment) Act, 1939

3 Inserted by s 4, Indian I T (Amendment) Act, 1926

4 Inserted by s 22, Indian I T (Second Amendment) Act, 1933

5 Inserted by s 64, Indian I T (Amendment) Act, 1939

6 Inserted by s 9, Indian I T (Amendment) Act, 1930

7 Substituted for "or sub-section (2) of section 32" by s 28, Indian I T (Amendment) Act, 1941

8 "Or sub-section (2) of section 33A or sub-section (3) of section 50A" omitted by s 64, Indian I T (Amendment) Act, 1939

9 Inserted by s 17, F Act, 1959, w e f 1-4-1959

10 Substituted for "be deemed to have committed the offence described in section 177 of the Indian Penal Code," by s 64, Indian I T (Amendment) Act, 1939

11 Substituted for "Assistant Commissioner" by s 65, *ibid*

12 Substituted, *ibid*

to the recovery of a demand, prepared for the purposes of this Act, shall be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872 (I of 1872), no court shall, save as provided in this Act, be entitled to require any public servant to produce before it any such return, accounts, documents or record or any part of any such record, or to give evidence before it in respect thereof.

(2) If a public servant discloses any particulars contained in any such statement, return, accounts, documents, evidence, affidavit, deposition or record, he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine

[13]* * [13][(3)] Nothing in this section shall apply to the disclosure—

(*a*) of any such particulars for the purposes of a prosecution under [14]* * the Indian Penal Code (XLV of 1860) in respect of any such statement, return, accounts, documents, evidence, affidavit or deposition, or for the purposes of a prosecution under this Act, or

[15][(*b*) of any such particulars to any person acting in the execution of this Act or of the Taxation on Income (Investigation Commission) Act, 1947 (XXX of 1947), where it is necessary or desirable to disclose the same to him for the purposes of either this Act or the Taxation on Income (Investigation Commission) Act, 1947, or]

(*c*) of any such particulars occasioned by the lawful employment under this Act of any process for the service of any notice or the recovery of any demand, or

[16][(*d*) of any such particulars to a Civil Court in any suit [17][or proceeding] to which Government [18][or any Income-tax authority] is a party, which relates to any matter arising out of any proceeding under this Act [18][or under any other law for the time being in force authorising any Income-tax authority to exercise any powers thereunder], or

[19][(*e*) of any such particulars to the Comptroller and Auditor-General of India for the purpose of enabling him to discharge his functions under the Constitution, or]

(*f*) of any such particulars to any officer appointed by the [20][Comptroller and Auditor-General of India] or the Central Board of Revenue to audit income-tax receipts or refunds, or

(*g*) of any such particulars, relevant to any inquiry into the conduct of an official of the Income-tax Department, to any persons appointed Commissioners under the Public Servants (Inquiries) Act, 1850 (XXXVII of 1850), or to an Officer otherwise appointed to hold such inquiry, or to a Public Service Commission established under [21][the Constitution] when exercising its functions in relation to any matter arising out of any such inquiry, or]

[22][(*gg*) of any such particulars, relevant to any inquiry into a charge of misconduct in connection with income-tax proceedings against a lawyer or

[13] "Provided that" omitted, and the proviso numbered sub-s (3), by s 66, Indian I T (Amendment) Act, 1939
[14] "Section 193 of" omitted by s 9, Indian I T (Second Amendment) Act, 1930
[15] Substituted by s 26, Indian I T (Amendment) Act, 1953, w e f 1-4-1952
[16] Cls (*d*) to (*g*) inserted by s 66, Indian I T (Amendment) Act, 1939
[17] Inserted by s 18, Taxation Laws (Extension to Merged States and Amendment) Act, 1949.
[18] Inserted by s 26, Indian I T. (Amendment) Act, 1953, w e. f. 1-4-1952
[19] Substituted by Adaptation of Laws Order, 1950
[20] Substituted for "Auditor-General of India", *ibid*
[21] Substituted for "the Government of India Act, 1935", *ibid.*
[22] Inserted by s 4, I T Law Amendment Act, 1940

[23][chartered] accountant, to the authority referred to in sub-section (3) of section 61, when exercising the functions referred to in that sub-section,] [24][or]

[25][(*h*) of any such particulars occasioned by the lawful exercise by a public servant of his powers under the Indian Stamp Act, 1899 (II of 1899), to impound an insufficiently stamped document, or]

[1][(*i*) of such facts, to an authorised officer of the United Kingdom, [2]* * or of any part of His Majesty's Dominions which has entered into an agreement with [3][India] for the granting of double taxation relief, as may be necessary for the purpose of enabling such relief or a refund under section 49 [4][or section 49AA] of this Act to be given, or

(*j*) of such facts, to an officer of a [5][State] Government, as may be necessary for the purpose of enabling that Government to levy or realise any tax imposed by it [6]* *, or

(*k*) of such facts, to any authority exercising powers under the Sea Customs Act, 1878 (VIII of 1878), or any [7][Central Act] imposing a duty of excise as may be necessary for enabling it duly to exercise such powers, or

(*l*) of such facts, [8][to any person charged by law with the duty of inquiring into the qualifications of electors], as may be necessary to establish whether a person is or is not entitled to be entered on an electoral roll, or

(*m*) [9][of] so much of such particulars, to the appropriate authority, as may be necessary to establish whether a person has or has not been assessed to income-tax in any particular year or years, where under the provisions of any law for the time being in force such fact is required to be established,] [10][or]

[10][(*n*) of such particulars to the Reserve Bank of India as are required by that Bank to enable it to compile financial statistics of international investments and balance of payments, or

(*o*) of such information as may be required by any officer or department of the Central Government or of a [11][State] Government for the purpose of investigation into the conduct and affairs of any public servant,]

[12][(*p*) of any such particulars to the Custodian of Evacuee Property appointed under the Administration of Evacuee Property Act, 1950, for the purpose of enabling him to discharge the duties imposed upon him by or under the said Act]

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23 Substituted for "registered" by s 26, Indian I T (Amendment) Act, 1953, w e f 1-4-1952
24 Inserted by s 3 and 2nd Sch , Repealing and Amending Act, 1942
25 Inserted as cl (*cc*) by s 23, Indian I T (Second Amendment) Act, 1933, and relettered "(*h*)" by s 66, Indian I T (Amendment) Act, 1939
1 Cls (*i*) to (*m*) substituted for cl (*d*) by s 66, Indian I T. (Amendment) Act, 1939
2 "Or of any Indian State" omitted by Adaptation of Laws Order, 1950
3 Substituted for "British India", *ibid*
4 Inserted by India (Adaptation of Income-tax, Profits Tax and Revenue Recovery Acts) Order, 1947
5 Substituted for "Provincial" by Adaptation of Laws Order, 1950.
6 "On agricultural income" omitted by s 18, Taxation Laws (Extension to Merged States and Amendment) Act, 1949.
7 Substituted for "Act of the Central Legislature" by Adaptation of Laws Order, 1950
8 Substituted for "to a Returning Officer" by s 29, Indian I T. (Amendment) Act, 1941.
9 Inserted by s 4, I T Law Amendment Act, 1940
10 Inserted by s 3, Indian I T (Amendment) Act, 1948
11 Substituted for "Provincial" by Adaptation of Laws Order, 1950
12 Inserted by s 57, Administration of Evacuee Property Act, 1950, and is to have effect during the continuance of the Act.

[13][* * [13][(4)] Nothing in this section shall apply to the production by a public servant before a Court of any document, declaration or affidavit filed, or the record of any statement or deposition made in a proceeding under [14][section 25A or] section 26A, or to the giving of evidence by a public servant in respect thereof]

[15]* * [15][(5)] No prosecution shall be instituted under this section except with the previous sanction of the Commissioner

CHAPTER IX

SUPER-TAX

55. Charge of super-tax.—In addition to the income-tax charged for any year, there shall be charged, levied and paid for that year in respect of the total income of the previous year of any [16][individual, Hindu undivided family, [17][company, local authority, unregistered firm or other association of persons], not being a registered firm], [18][or the partners of the firm or members of the association individually,] an additional duty of income-tax (in this Act referred to as super-tax) at the rate or rates laid down for that year by [19][a Central Act]

[18][Provided that where under the provisions of clause (*b*) of sub-section (5) of section 23 an unregistered firm has been assessed in the manner applicable to a registered firm, super-tax shall be payable by each partner of the firm individually on his share in the income, profits and gains of the firm and not by the firm itself·]

Provided [20][further] that, where the profits and gains of an unregistered firm [20][or other association of persons not being a company] have been assessed to super-tax, super-tax shall not be payable by [21][a partner of the firm or a member of the association, as the case may be], in respect of the amount of such profits and gains which is proportionate to his share

56. Total income for purposes of super-tax.—[22][Except in cases to which [23][section 15A applies or to which] by clause (*a*) of the proviso to sub-sections (3) and (4) of section 25 those sub-sections do not apply and] subject to the provisions of this Chapter, the total income of any [24][individual, Hindu undivided family, company, [25][local authority], unregistered firm or other [1][association of persons]] shall, for the purposes of super-tax, be the total income as assessed for the purposes of income-tax, and where an assessment of total income has become final and conclusive for the

[13] The original proviso inserted by s 10, Indian I T (Amendment) Act, 1930, and "Provided further that" omitted, and the proviso numbered sub-s (4), by s 66, Indian I T (Amendment) Act, 1939
[14] Inserted by s 66, Indian I T (Amendment) Act, 1939
[15] "Provided further that" omitted, and the proviso numbered sub-s (5), *ibid*
[16] Substituted for "individual, unregistered firm, Hindu undivided family or company" by s 7 read with s 11, Indian I T (Amendment) Act, 1924, w e f 1-4-1923
[17] Substituted for "company, unregistered firm or other association of individuals" by s 67, Indian I T (Amendment) Act, 1939
[18] Inserted, *ibid*
[19] Substituted for "Act of the Central Legislature" by Adaptation of Laws Order, 1950
[20] Inserted by s 67, Indian I T (Amendment) Act, 1939
[21] Substituted for "an individual having a share in the firm", *ibid*
[22] Inserted by s 13, Indian I T (Amendment) Act, 1944
[23] Inserted by s 6, Indian I T (Amendment) Ordinance, 1945
[24] Substituted for "individual, unregistered firm, Hindu undivided family or company" by s 8 read with s 11, Indian I T (Amendment) Act, 1924, w e f 1-4-1923
[25] Inserted by s 68, Indian I T (Amendment) Act, 1939
[1] Substituted for "association of individuals", *ibid*

purposes of income-tax for any year, the assessment shall also be final and conclusive for the purposes of super-tax for the same year

[2]* * * * *

[3][**56A. Exemption from super-tax of certain dividends.**—(1) No super-tax shall be payable by a company on such part of its total income as consists of dividends received from an Indian company formed and registered after the 31st day of March, 1952, where—

(*i*) the Central Government is satisfied that the Indian company is wholly or mainly engaged in an industry for the manufacture or production of any one or more of the following, namely —

(1) Coal, including coke and other derivatives,

[4][(2) Iron and steel (metal), ferro-alloys, and special steels,]

(3) Motor and aviation fuel, kerosene, crude oils and synthetic oils (not being oil exploration),

[5][(4) Chemicals (other than fertilisers) of the following types —

(*i*) Inorganic heavy chemicals,

(*ii*) Organic heavy chemicals,

(*iii*) Fine chemicals including photographic chemicals,

(*iv*) Synthetic rubber,

(*v*) Man-made fibres other than viscose rayon,

(*vi*) Coke oven by-products,

(*vii*) Coal-tar distillation products like naphthalene, anthracene and the like,

(*viii*) Explosives including gun-powder and safety fuses,

(4A) Inorganic, organic and mixed fertilisers,

(5) Industrial machinery of the following types (including gear wheels and parts thereof, boilers and steam generating plants) —

A *Major items of specialised equipment used in specific industries*

(*i*) Textile machinery (such as frames, carding machines, power-looms and the like) including textile accessories,

(*ii*) Jute machinery,

(*iii*) Rayon machinery,

(*iv*) Sugar machinery,

(*v*) Tea machinery,

(*vi*) Mining machinery,

(*vii*) Metallurgical machinery,

(*viii*) Cement machinery,

(*ix*) Chemical machinery,

(*x*) Pharmaceuticals machinery,

(*xi*) Paper machinery,

B *General items of machinery used in several industries, such as the equipment required for various "unit processes"*

(*i*) Size reduction equipment—crushers, ball mills and the like,

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[2] The proviso omitted by s 10, Indian I T (Amendment) Act, 1928
[3] Inserted by s 3, F Act, 1953, w e f 1-4-1953
[4] Substituted by s 8, Taxation Laws (Amendment) Act, 1960, w e f 1-4-1960
[5] Substituted for items (4) and (5), *ibid*, w e f 1-4-1960

an agreement for the recovery of income-tax under this Act and the corresponding law in force in that country), forward to the Board a certificate specifying the amount of arrears due from the assessee and the Board may take such action thereon as it may deem appropriate having regard to the terms of the agreement with such country]

229. Recovery of penalties, fine, interest and other sums.—Any sum imposed by way of interest, fine, penalty, or any other sum payable under the provisions of this Act, shall be recoverable in the manner provided in this Chapter for the recovery of arrears of tax

Rr 42-44 **230. Tax clearance certificates.**—(1) Subject to such exceptions as the Central Government may, by notification in the Official Gazette, specify in this behalf, no person who is not domiciled in India, or who, even if domiciled in India at the time of his departure, has, in the opinion of an Income-tax authority, no intention of returning to India, shall leave the territory of India by land, sea or air unless he first obtains from such authority as may be appointed by the Central Government in this behalf (hereinafter in this section referred to as the "competent authority") a certificate stating that he has no liabilities under this Act, the Excess Profits Tax Act, 1940 (XV of 1940), the Business Profits Tax Act, 1947 (XXI of 1947), the Indian Income-tax Act, 1922 (XI of 1922), the Wealth-tax Act, 1957 (XXVII of 1957), the Expenditure-tax Act, 1957 (XXIX of 1957), or the Gift-tax Act, 1958 (XVIII of 1958), or that satisfactory arrangements have been made for the payment of all or any of such taxes which are or may become payable by that person

Provided that in the case of a person not domiciled in India the competent authority may, if it is satisfied that such person intends to return to India, issue an exemption certificate either in respect of a single journey or in respect of all journeys to be undertaken by that person within such period as may be specified in the certificate

(2) If the owner or charterer of any ship or aircraft carrying persons from any place in the territory of India to any place outside India allows any person to whom sub-section (1) applies to travel by such ship or aircraft without first satisfying himself that such person is in possession of a certificate as required by that sub-section, he shall be personally liable to pay the whole or any part of the amount of tax, if any, payable by such person as the Income-tax Officer may, having regard to the circumstances of the case, determine

(3) In respect of any sum payable by the owner or charterer of any ship or aircraft under sub-section (2), the owner or charterer, as the case may be, shall be deemed to be an assessee in default for such sum, and such sum shall be recoverable from him in the manner provided in this Chapter as if it were an arrear of tax

(4) The Board may make rules for regulating any matter necessary for, or incidental to, the purpose of carrying out the provisions of this section

Explanation—For the purposes of this section, the expressions "owner" and "charterer" include any representative, agent or employee empowered by the owner or charterer to allow persons to travel by the ship or aircraft

[16][**230A. Restrictions on registration of transfers of immovable property in certain cases.**—(1) Notwithstanding anything contained in any other law for the time being in force, where any document required to be registered under the provisions of clause (*a*) to clause (*e*) of sub-section (1) of section 17 of the Indian Registration Act, 1908 (XVI of 1908), purports to transfer, assign, limit or extinguish the right, title or interest of any person to or in any property [17]* * valued at more than fifty thousand

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[16] Inserted by s 10, Direct Taxes (Amendment) Act, 1964, w. e f 6-10-1964
[17] "(Other than agricultural land)" omitted by s 27, F (No 2) Act, 1971, w e f 1-10-1971

(2) The exemption specified in sub-section (1) shall apply also to dividends payable to a company in respect of any fresh capital raised by an Indian company after the 28th day of February, 1953, by public subscription for the purpose of increasing the production of, or starting a separate unit of, any one or more of the items specified in clause (i) of sub-section (1)]

57. Non-resident partners and shareholders.—*Omitted by s. 69 of the Indian Income-tax (Amendment) Act, 1939*

58. Application of Act to super-tax.—(1) All the provisions of this Act [8][relating to the charge, assessment, collection and recovery of income-tax except those contained in] section 3, [9][the first proviso] to sub-section (1) of section 7, [10][the second and third provisos to section 8], [11][clauses (*a*) and (*b*) of sub-section (2) of section 14], and sections 15, [12][15A], [13]* [14]* 19, [15][[16]* and the first proviso to sub-section (1) of section 41 and section] [17]* [18][[19]* 58F and [20][sub-section (2)] of section 58G] shall apply, so far as may be, to the charge, assessment, collection and recovery of super-tax.

[21]* * * * *

(2) Save as provided in [22][[23][sub-sections (2), (2A), (2B), [24][[25][(3)], (3B), (3C) and (3D)]] of section 18], [1]* * [2][and section 58H] super-tax shall be payable by the assessee direct.

[3][CHAPTER IX-A

SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES OF PROVIDENT FUNDS

58A. Definitions.—In this Chapter, unless there is anything repugnant in the subject or context,—

(*a*) a "recognised provident fund" means a provident fund which has been and continues to be recognised by the Commissioner, in accordance with the provisions of this Chapter,

8 Substituted for "except" by s 25, Indian I T (Second Amendment) Act, 1933
9 Substituted for "the second proviso" by s 24, F Act, 1956, w e f 1-4-1956
10 Substituted for "the proviso to section 8" by s 25, Indian I T (Second Amendment) Act, 1933
11 Substituted for "sub-section (2) of section 14" by s 30, Indian I T (Amendment) Act, 1941.
12 Inserted by s 7, Indian I T (Amendment) Ordinance, 1945
13 "17" omitted by s 70, Indian I T (Amendment) Act, 1939
14 "18" omitted by s 25, Indian I T (Second Amendment) Act, 1933
15 Substituted for "20" by s 70, Indian I T (Amendment) Act, 1939
16 "And 20" omitted by s 18, F. Act, 1959, w e f 1-4-1959, subject to the special provisions in s 3, F Act, 1960
17 "21" omitted by s 70, Indian I T (Amendment) Act, 1939
18 Substituted for "and 48" by s 25, Indian I T (Second Amendment) Act, 1933
19 "48" omitted by s 70, Indian I T (Amendment) Act, 1939
20 Substituted for "sub-sections (2) and (3)", *ibid*
21 The proviso omitted by s 25, Indian I T (Second Amendment) Act, 1933
22 Inserted, *ibid*
23 Substituted for "sub-sections (3A), (3B), (3C) and (3D)" by s 70, Indian I T (Amendment) Act, 1939
24 Substituted for "(3B), (3C), (3D) and (3E)" by s 24, F Act, 1956, w e f 1-4-1956
25 Substituted for "(3A)" by s 18, F Act, 1959, w e f 1-4-1959
1 "Section 57" omitted by s 70, Indian I T (Amendment) Act, 1939
2 Inserted by s 4, Indian I T (Provident Funds Relief) Act, 1929
3 Inserted by s 5, *ibid*

(*b*) an "employer" means—

(*i*) a Hindu undivided family, company, firm or other association of [4]* * persons, or

(*ii*) an individual engaged in a business, profession or vocation whereof the profits and gains are assessable to income-tax under section 10, [5]* * maintaining a provident fund for the benefit of his or its employees,

(*c*) an "employee" means an employee participating in a provident fund, but does not include a personal or domestic servant,

(*d*) a "contribution" means any sum credited by or on behalf of any employee out of his salary, or by an employer out of his own moneys, to the individual account of an employee, but does not include any sum credited as interest,

(*e*) the "balance to the credit" of an employee means the total amount to the credit of his individual account in a provident fund at any time,

(*f*) the "annual accretion" to the balance to the credit of an employee means the increase to such balance in any year, arising from contributions and interest,

(*g*) the "accumulated balance due" to an employee means the balance to his credit, or such portion thereof as may be claimable by him under the regulations of the fund, on the day he ceases to be an employee of the employer maintaining the fund, and

(*h*) the "regulations of a fund" means the special body of regulations governing the constitution and administration of a particular provident fund

58B. The according and withdrawal of recognition.—(1) The Commissioner of Income-tax may accord recognition to any provident fund which, in his opinion, satisfies the conditions prescribed in section 58C and the rules made thereunder, and may, at any time, withdraw such recognition if, in his opinion, the provident fund contravenes any of those conditions

[6]* * * * *

[7][(2)] An order according recognition shall take effect on such date as the Commissioner may fix in accordance with any rules the Central Board of Revenue may make in this behalf, such date not being later than the last day of the financial year in which the order is made

[7][(3)] An order withdrawing recognition shall take effect from the day on which it is made

[8][(3A) An order according recognition to a provident fund shall not, unless the Commissioner otherwise directs, be affected by the fact that the fund is subsequently amalgamated with another provident fund on the occurrence of an amalgamation of the undertakings in connection with which the two funds are maintained, or that it subsequently absorbs the whole or a part of another provident fund belonging to an undertaking which is wholly or in part transferred to or merged in the undertaking of the employer maintaining the first-mentioned fund]

[7][(4)] An employer objecting to an order of the Commissioner refusing to recognise [9][or an order withdrawing recognition from] a provident fund may appeal, within sixty days of such order, to the Central Board of Revenue

The appeal shall be in the form and shall be verified in the manner prescribed by the Central Board of Revenue.

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4 "Individuals or" omitted by s 71, Indian I T (Amendment) Act, 1939
5 "Or section 11" omitted, *ibid*
6 Sub-s (2) omitted by s 72, *ibid*
7 Sub-ss (3), (4) and (5) renumbered "(2)", "(3)" and "(4)" respectively, *ibid*
8 Inserted by s 9, Indian I T (Amendment) Act, 1940
9 Inserted by s 72, Indian I T (Amendment) Act, 1939

58C. Conditions to be satisfied by a recognised provident fund.—(1) In order that a provident fund may receive and retain recognition, it shall satisfy the conditions set out below and any other conditions which the [10][Central Government] may, by rule, prescribe—

(*a*) All employees shall be employed in India, or shall be employed by an employer whose principal place of business is in [11][the taxable territories]

[12][Provided that the Commissioner may, if he thinks fit and subject to such conditions, if any, as he thinks proper to attach to the recognition, accord recognition to a fund maintained by an employer whose principal place of business is not in [11][the taxable territories] notwithstanding that a proportion not exceeding ten per cent of the employees is employed outside India]

(*b*) The contributions of an employee in any year shall be a definite proportion of his salary for that year, and shall be deducted by the employer from the employee's salary in that proportion, at each periodical payment of such salary in that year, and credited to the employee's individual account in the fund

[13][Provided that an employee who retains his employment while serving in [14][the Armed Forces of the Union] or when taken into or employed in the national service under the National Service (European British Subjects) Act, 1940, or the National Service (Technical Personnel) Ordinance, 1940, may, notwithstanding that he receives from the employer no salary or a salary less than he would have received had he not entered [14][the Armed Forces of the Union], or been so taken into or employed in the national service, contribute to the fund during his service in [14][the Armed Forces of the Union] or while so taken into or employed in the national service a sum not exceeding the amount he would have contributed had he continued to receive from the employer the same salary (including increments, if any) as he would have received had he not entered [14][the Armed Forces of the Union] or been taken into or employed in the national service]

(*c*) Subject to the provisions of section 58D, the contributions of an employer to the individual account of an employee in any year shall not exceed the amount of the contributions of the employee in that year, and shall be credited to the employee's individual account at intervals not exceeding one year

(*d*) The fund shall consist of contributions as above specified [15][and of donations, if any, received [16][by the trustees]], of accumulations thereof, and of interest (simple and compound), credited in respect of such [17][contributions, donations and accumulations], and of securities purchased therewith, [18][and of any capital gains arising from the sale, exchange or transfer of capital assets of the fund], and of no other sums

[19][Provided that the fund may consist also of the accumulated balance due to an employee who has ceased to be an employee, and of interest

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[10] Substituted for "Governor General in Council" by Government of India (Adaptation of Indian Laws) Order, 1937
[11] Substituted for "British India" by Adaptation of Laws Order, 1950
[12] Inserted by s 10, Indian I T (Amendment) Act, 1940
[13] Inserted, *ibid*, w e f 3-9-1939
[14] Substituted for "His Majesty's Forces" by Adaptation of Laws Order, 1950
[15] Inserted by s 10, Indian I T (Amendment) Act, 1940
[16] Substituted for "from the trustees" by s 31, Indian I T (Amendment) Act, 1941
[17] Substituted for "contributions and accumulations" by s 10, Indian I T (Amendment) Act, 1940
[18] Inserted by s 14, I T and E P T (Amendment) Act, 1947
[19] Inserted by s 27, Indian I T (Amendment) Act, 1953, w e f 1-4-1952

(simple and compound) in respect thereof where such balance is retained in the fund in accordance with the provisions of clause (*g*)]

(*e*) The fund shall be vested in two or more trustees [20][or in the Official Trustee] under a trust which shall not be revocable save with the consent of all the beneficiaries

(*f*) The employer shall not be entitled to recover any sum whatsoever from the fund, save in cases where the employee is dismissed for misconduct or voluntarily leaves his employment otherwise than on account of ill-health or other unavoidable cause before the expiration of the term of service specified in this behalf in the regulations of the fund.

In such cases the recoveries made by the employer shall be limited to the contributions made by him to the individual account of the employee, and to interest (simple and compound) credited in respect of such contributions and accumulations thereof, in accordance with the regulations of the fund

(*g*) The accumulated balance due to an employee shall be payable on the day he ceases to be an employee of the employer maintaining the fund, [21][unless at the request of the employee made in writing, the trustees of the fund consent to retain the whole or any part of the accumulated balance due to the employee in the fund to be drawn by him at any time on demand]

(*h*) Save as provided in clause (*g*), or in accordance with such conditions and restrictions as the [22][Central Government] may, by rules, prescribe, no portion of the balance to the credit of an employee shall be payable to him

(2) Where there is a repugnance between any regulation of a recognised provident fund and any provision of this Chapter or of the rules made thereunder, the regulation shall, to the extent of the repugnance, be of no effect

The Commissioner may, at any time, require that such repugnance shall be removed from the regulations of the fund

58D Power to relax restrictions of employer's contributions in certain cases.—Subject to any rules which the [22][Central Government] may make in this behalf, the Commissioner may, in respect of any particular fund, relax the provisions of condition (*c*) of sub-section (1) of section 58C—

(*a*) so as to permit the payment of larger contributions by an employer to the individual accounts of employees whose salary does not exceed five hundred rupees per mensem, and

(*b*) so as to permit the crediting by employers to the individual accounts of employees of periodical bonuses or other contributions of a contingent nature, where the calculation and payment of such bonuses or other contributions is provided for on definite principles by the regulations of the fund

[23][**58E. Annual contributions of employers and interest when deemed to be income received.**—That portion of the annual accretion in any year to the balance at the credit of an employee participating in a recognised provident fund as consists of—

(*a*) contributions made by the employer in excess of ten per cent of the salary of the employee, and

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[20] Inserted by s 2, Indian I T (Amendment) Act, 1931

[21] Inserted by s 27, Indian I T (Amendment) Act, 1953, w e f 1-4-1952

[22] Substituted for "Governor General in Council" by Government of India (Adaptation of Indian Laws) Order, 1937

[23] Substituted by s 9, F (No 2) Act, 1957, w e f 1-4-1957 for making deduction of income-tax under sub-s (2) or (2B) of s 18, and w e f 1-4-1958 for other purposes

(*b*) interest credited on the balance to the credit of the employee in so far as it exceeds one-third of the salary of the employee or is allowed at a rate exceeding the rate fixed by the Central Government in this behalf by notification in the Official Gazette,

shall be deemed to have been received by him in that year and shall be included in his total income for that year, and shall be liable to income-tax and super-tax]

[24][**58F. Exemption of employees' contributions from income-tax.**—An employee shall not be liable to pay income-tax on his own contributions to his individual account in a recognised provident fund in so far as the aggregate of such contributions in any year does not exceed one-fifth of his salary in that year or eight thousand rupees, whichever is less]

58G. Exemption of accumulated balance from income-tax and super-tax.—[25][(1) Where the accumulated balance due to an employee participating in a recognised provident fund becomes payable, such accumulated balance shall be exempt from payment of super-tax except to the extent of an amount equal to the aggregate of the amounts of super-tax on annual accretions that would have been payable under section 58E up to the 1st day of April, 1933, if the Indian Income-tax (Second Amendment) Act, 1933 (XVIII of 1933), had come into force on the 15th March, 1930]

[1][(2)] Where an employee participating in a recognised provident fund has rendered continuous service with his employer for a period of not less than five years, and the accumulated balance due to him becomes payable, such accumulated balance shall be exempt from payment of income-tax [2]* * and shall be excluded from the computation of his total income

Provided that the Commissioner of Income-tax may allow such exemption and exclusion where the employee has rendered continuous service with the employer for a period of less than five years, if, in his opinion, the service has been terminated by reason of the employee's ill-health, or by the contraction or discontinuance of the employer's business, or other cause beyond the control of the employee

[3][(3)] Where exemption from payment of income-tax is not allowed under the provisions of [4][sub-section (2)], the Income-tax Officer shall calculate the total of the various sums of income-tax [5][and super-tax which would have been payable by the employee in respect of his total income for each of the years concerned if the fund had not been a recognised provident fund, and the amount by which such total exceeds the total of all sums paid by or on behalf of such employee by way of tax for such years shall be payable by the employee in addition to any other income-tax and super-tax] for which he may be liable for the year in which the accumulated balance due to him becomes payable

58H. Deduction at source of income-tax payable on accumulated balances due.—The trustees of a recognised provident fund, or other person authorised by the regulations of the fund to make payment of accumulated balances due to employees, shall, at the time an accumulated balance due to an employee is paid, deduct therefrom any income-tax payable under [6][sub-section (3)] of section 58G and any income-tax

[24] Substituted by s 10, F (No 2) Act, 1957, w e f 1-4-1957 for making deduction of income-tax under sub-s (2) or (2B) of s 18, and w e f 1-4-1958 for other purposes
[25] Inserted by s 26, Indian I T (Second Amendment) Act, 1933
[1] Sub-s (1) renumbered "(2)", *ibid*
[2] "And super-tax" omitted, *ibid*
[3] Sub-s (2) renumbered "(3)", *ibid*
[4] Substituted for "sub-section (1)", *ibid*
[5] Substituted by s 74, Indian I T (Amendment) Act, 1939
[6] Substituted for "sub-section (2)" by s 2 and Sch. 1, Repealing and Amending Act, 1934

and super-tax payable on an employee's total income as determined under sub-section (3) of section 58J, and sub-sections (4) to (9) of section 18 shall apply as if the sum to be deducted were income-tax payable under the head "Salaries"

58-I. Accounts of recognised provident funds.—(1) The accounts of a recognised provident fund shall be maintained by the trustees of the fund and shall be in such form and for such periods, and shall contain such particulars as the Central Board of Revenue may prescribe

(2) The accounts shall be open to inspection at all reasonable times by Income-tax authorities, and the trustees shall furnish to the Income-tax Officer such abstracts thereof as the Central Board of Revenue may prescribe

58J. Treatment of balances in newly recognised provident funds.—(1) Where recognition is accorded to a provident fund with existing balances, an account shall be made of the fund up to the day before the day on which the recognition takes effect, showing the balance to the credit of each employee on such day, and containing such further particulars as the Central Board of Revenue may prescribe

(2) The account shall also show in respect of the balance to the credit of each employee the amount thereof which is to be transferred to that employee's account in the recognised provident fund, and such amount (hereinafter called his transferred balance) shall be shown as the balance to his credit in the recognised provident fund on the date on which the recognition of the fund takes effect, and sub-sections (3) and (4) shall apply thereto

Any portion of the balance to the credit of an employee in the existing fund which is not transferred to the recognised fund shall be excluded from the accounts of the recognised fund and shall be liable to income-tax and super-tax in accordance with the provisions of this Act other than this Chapter

(3) Subject to such rules as the Central Board of Revenue may make in this behalf, the Income-tax Officer shall make a calculation of the aggregate of all sums comprised in a transferred balance which would have been liable to income-tax if this Chapter had been in force from the date of the institution of the fund, without regard to any tax which may have been paid on any such sum, and such aggregate (if any) shall be deemed to be income received by the employee in the year in which the recognition of the fund takes effect, and shall be included in the employee's total income for that year, and, for the purposes of assessment, the remainder of the transferred balance shall be disregarded, but no other exemption or relief, by way of refund or otherwise, shall be granted in respect of any sum comprised in such transferred balance

Provided that, in cases of serious accounting difficulty, the Commissioner shall have power, subject to the said rules, to make a summary calculation of such aggregate

(4) Notwithstanding anything contained in condition (*h*) of sub-section (1) of section 58C, an employee, in order to enable him to pay the amount of tax assessed on his total income as determined under sub-section (3), shall be entitled to withdraw from the balance to his credit in the recognised provident fund a sum not exceeding the difference between such amount and the amount to which he would have been assessed if the transferred balance had not been included in his total income

(5) Nothing in this section shall affect the rights of the persons administering an unrecognised provident fund or dealing with it, or with the balance to the credit of any individual employee, before recognition is accorded, in any manner which may be lawful

58K. Treatment of fund transferred by employer to trustee.—(1) Where an employer who maintains a provident fund (whether recognised or not) for the benefit

of his employees and has not transferred the fund or any portion of it, transfers such fund or portion to trustees in trust for the employees participating in the fund, the amount so transferred shall be deemed to be of the nature of capital expenditure

(2) When an employee participating in such fund is paid the accumulated balance due to him therefrom, any portion of such balance as represents his share in the amount so transferred to the trustee (without addition of interest, and exclusive of the employee's contributions and interest thereon) shall, [7][if the employer has made effective arrangements to secure that tax shall be deducted at source from the amount of such share when paid to the employee,] be deemed to be an expenditure by the employer within the meaning of [8][clause (*xv*)] of sub-section (2) of section 10, incurred in the year in which the accumulated balance due to the employee is paid

58L. Provisions relating to rules.—(1) All rules made under this Chapter shall be subject to the provisions of sub-sections (4) and (5) of section 59

(2) In addition to any power conferred by this Chapter, the [9][Central Government] may make rules—

(*a*) prescribing the statements and other information to be submitted with an application for recognition,

(*b*) limiting the contributions to a recognised provident fund by employees of a company who are shareholders in the company,

(*c*) providing for the assessment by way of penalty of any consideration received by an employee for an assignment of, or creation of a charge upon, his beneficial interest in a recognised provident fund,

(*d*) determining the extent to and the manner in which exemption from payment of income-tax and super-tax may be granted in respect of contributions and interest credited to the individual accounts of employees in a provident fund from which recognition has been withdrawn, and

(*e*) generally, to carry out the purposes of this Chapter and to secure such further control over the recognition of provident funds and the administration of recognised provident funds as [10][it] may deem requisite

58M. Application of this Chapter.—This Chapter shall not apply to any provident fund to which the Provident Funds Act, 1925 (XIX of 1925), applies]

[11][CHAPTER IX-B

SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES OF SUPERANNUATION FUNDS

58N. Definitions.—In this Chapter unless there is anything repugnant in the subject or context,—

(*a*) "approved superannuation fund" means a superannuation fund or any part of a superannuation fund which has been and continues to be approved by the Central Board of Revenue in accordance with the provisions of this Chapter,

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[7] Inserted by s 75, Indian I T (Amendment) Act, 1939
[8] Substituted for "clause (*xii*)" by s 26, F Act, 1956, w e f 1-4-1956
[9] Substituted for "Governor General in Council" by Government of India (Adaptation of Indian Laws) Order, 1937
[10] Substituted for "he", *ibid*
[11] Inserted by s 76, Indian I T (Amendment) Act, 1939

(*b*) "employer", "employee" and "contribution" have, in relation to superannuation funds, the meanings assigned to those expressions in section 58A in relation to provident funds,

(*c*) "ordinary annual contribution" means an annual contribution of a fixed amount or an annual contribution computed on some definite basis by reference to the earnings, the contributions or the number of members of the fund

58-O. Approval and withdrawal of approval.—(1) The Central Board of Revenue may accord approval to any superannuation fund or any part of a superannuation fund which in its opinion complies with the requirements of section 58P, and may at any time withdraw such approval, if in its opinion the circumstances of the fund or part cease to warrant the continuance of the approval

(2) The Central Board of Revenue shall communicate in writing to the trustees of the fund the grant of approval with the date on which the approval is to take effect, and, where the approval is granted subject to conditions, those conditions

(3) The Central Board of Revenue shall communicate in writing to the trustees of the fund any withdrawal of approval with the reasons for such withdrawal and the date on which the withdrawal is to take effect

(4) The Central Board of Revenue shall neither refuse nor withdraw approval to any superannuation fund or any part of a superannuation fund unless it has given the trustees of that fund a reasonable opportunity of being heard in the matter

58P. Conditions for approval.—In order that a superannuation fund may receive and retain approval the following conditions shall be satisfied, namely —

(*a*) the fund shall be a fund established under an irrevocable trust in connection with a trade or undertaking carried on in [12][the taxable territories];

(*b*) the fund shall have for its sole purpose the provision of annuities for employees in the trade or undertaking on their retirement at or after a specified age or on their becoming incapacitated prior to such retirement, or for the widows, children or dependants of persons who are or have been such employees on the death of those persons, and

(*c*) the employer in the trade or undertaking shall be a contributor to the fund

Provided that the Central Board of Revenue may, if it thinks fit and subject to such conditions, if any, as it thinks proper to attach to the approval, approve a fund or any part of a fund—

(*i*) notwithstanding that the rules of the fund provide for the return in certain contingencies of contributions paid to the fund, or

(*ii*) if the main purpose of the fund is the provision of such annuities as aforesaid, notwithstanding that such provision is not its sole purpose, or

(*iii*) notwithstanding that the trade or undertaking in connection with which the fund is established is carried on only partly in [12][the taxable territories]

58Q. Application for approval.—(1) An application for approval of a superannuation fund or part of a superannuation fund for any year of assessment shall be made in writing before the end of that year by the trustees of the fund to the Income-tax Officer, and shall be accompanied by a copy of the instrument under which the fund is established and by two copies of the rules and of the accounts of the fund for the

[12] Substituted for "British India" by Adaptation of Laws Order, 1950

last year for which such accounts have been made up The Central Board of Revenue may require such further information to be supplied as it thinks proper.

(2) If any alteration in the rules, constitution, objects or conditions of the fund is made at any time after the date of the application for approval, the trustees of the fund shall forthwith communicate such alteration to the Income-tax Officer, and in default of such communication any approval given shall, unless the Central Board of Revenue otherwise orders, be deemed to have been withdrawn from the date on which the alteration took effect

58R. Exemption of superannuation fund from income-tax.—Income derived from investments or deposits of an approved superannuation fund [13][and any capital gains arising from the sale, exchange or transfer of capital assets of such fund] shall be exempt from payment of income-tax, and any sum paid by an employer or an employee by way of contribution towards an approved superannuation fund shall, in the case of an employer, be deducted in computing his income, profits or gains for the purpose of assessment, and, in the case of an employee, be treated for all the purposes of this Act as if it were a sum to which the provisions of section 15 apply

Provided that no such exemption shall be allowable to an employee in respect of any sum which is not an ordinary annual contribution

Provided further that where a contribution by an employer is not an ordinary annual contribution it shall, for the purposes of this section, be treated, as the Central Board of Revenue may direct, either as an expense incurred in the year in which the sum is paid, or as an expense to be spread over such period of years as the Central Board of Revenue thinks proper

58S. Treatment of repaid contributions.—(1) Where any contributions (including interest on contributions, if any) are repaid to an employee, the amount so repaid shall be deemed for the purposes of income-tax [14]* * to be income of the employee for that year.

(2) Where any contributions (including interest on contributions, if any) are repaid to an employee during his lifetime but not at or in connection with the termination of his employment income-tax on the amount so repaid or paid shall, except in the case of an employee whose employment was carried on abroad, be deducted by the trustees of the fund at the average rate of tax at which the employee was liable to income-tax [14]* * during the preceding three years or during such period, if less than three years, as he was a member of the fund, and shall be paid by the trustees to the credit of the Central Government within the prescribed time and in such manner as the Central Board of Revenue may direct R 11

58T. Deduction from pay of, and contributions on behalf of, employee to be included in return under section 21.—Where an employer deducts from the emoluments paid to an employee or pays on his behalf any contributions of that employee to an approved superannuation fund, he shall include all such deductions or payments in the return which he is required to furnish under section 21

58U. Liabilities of trustees on cessation of approval of fund.—If a fund or a part of a fund for any reason ceases to be an approved superannuation fund, the trustees of the fund shall nevertheless remain liable to account for tax on any sum paid—

(*a*) on account of returned contributions (including interest on contributions, if any), and

(*b*) in commutation or in lieu of annuities,

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[13] Inserted by s 15, I T and E P T (Amendment) Act, 1947
[14] "And super-tax" omitted by s 5, I T Law Amendment Act, 1940.

in so far as the sum so paid is in respect of contributions made before the fund or part of the fund ceased to be an approved fund under the provisions of this Chapter

58V. Particulars to be furnished in respect of superannuation funds.—The trustees of an approved superannuation fund and any employer who contributes to an approved superannuation fund shall, when required by notice from the Income-tax Officer, within twenty-one days of the date of such notice —

(*a*) furnish to the Income-tax Officer a return containing such particulars of contributions made to the fund as the notice may require,

(*b*) prepare and deliver to the Income-tax Officer a return containing—

(*i*) the name and place of residence of every person in receipt of an annuity from the fund,

(*ii*) the amount of the annuity payable to each annuitant,

(*iii*) particulars of every contribution (including interest on contributions, if any) returned to the employer or to employees, and

(*iv*) particulars of sums paid in commutation or in lieu of annuities,

(*c*) furnish to the Income-tax Officer a copy of the accounts of the fund to the last date prior to such notice to which such accounts have been made up, together with such other information and particulars as the Central Board of Revenue may reasonably require]

CHAPTER X

MISCELLANEOUS

59. Power to make rules.—(1) The [15][Central Board of Revenue] may, subject to the control of the [16][Central Government], make rules for carrying out the purposes of this Act and for the ascertainment and determination of any class of income Such rules may be made for the whole of [17][the taxable territories] or for such part thereof as may be specified

(2) Without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe the manner in which, and the procedure by which, the income, profits and gains shall be arrived at in the case of—

Rr 23, 24 (*i*) incomes derived in part from agriculture and in part from business,

[18]* * * * *

Rr 33, 34 [18][(*ii*)] persons residing out of [17][the taxable territories],

R 24A [19][(*aa*) provide for the determination of the value of any perquisite chargeable to tax under this Act in such manner and on such basis as appears to the Central Board of Revenue to be proper and reasonable

[15] Substituted for "Board of Inland Revenue" by s 4 and Sch , Central Board of Revenue Act, 1924
[16] Substituted for "Governor General in Council" by Government of India (Adaptation of Indian Laws) Order, 1937
[17] Substituted for "British India" by Adaptation of Laws Order, 1950
[18] Sub-cl (*ii*) omitted, and sub-cl (*iii*) renumbered "(*ii*)", by s 77, Indian I T (Amendment) Act, 1939
[19] Inserted by s 12, F Act, 1958, w e f 1-4-1958

Provided that the rules made in respect of the matters specified in this clause on the first occasion they are made shall not be subject to the condition of previous publication and may be given retrospective effect from such date as the Central Board of Revenue thinks fit,]

(*b*) prescribe the procedure to be followed on applications for refunds; Rr 36-41

[20][(*c*) prescribe the procedure for giving effect to the terms of any agreement [21][for the granting of relief in respect of double taxation or for the avoidance of double taxation which may be entered into by the Central Government under this Act],

(*d*) * * * * *]

(*e*) provide for any matter which by this Act is to be prescribed.

[22][(3) In cases coming under clause (*a*) of sub-section (2), where the income, profits and gains liable to tax cannot be definitely ascertained, or can be ascertained only with an amount of trouble and expense to the assessee which, in the opinion of the Central Board of Revenue, is unreasonable, the rules made under that sub-section may—

(*a*) prescribe methods by which an estimate of such income, profits and gains may be made, and

(*b*) in cases coming under sub-clause (*i*) of clause (*a*) of sub-section (2), prescribe the proportion of the income which shall be deemed to be income, profits and gains liable to tax,

and an assessment based on such estimate or proportion shall be deemed to be duly made in accordance with the provisions of this Act]

[23][(4)] The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of previous publication.

[23][(5)] Rules made under this section shall be published in the [24][Official Gazette], and shall thereupon have effect as if enacted in this Act

[25][**59A. Publication of information respecting penalties in certain cases.**—(1) The Central Government shall cause to be published, by notification in the Official Gazette, the names and such other particulars as may be relevant of—

(*a*) persons on each of whom a penalty amounting to not less than five thousand rupees or such lower amount as may be fixed by the Central Government, by notification in the Official Gazette, has been imposed at any time on or after the 1st day of April, 1960, under clause (*c*) of sub-section (1) of section 28, and

(*b*) persons who have been convicted as a result of any proceedings initiated on or after the 1st day of April, 1960, under section 52 or under any provision of the Indian Penal Code (XLV of 1860) for any offence connected with any proceedings under this Act

(2) If in the interests of revenue the Central Government considers it necessary so to do, it may also cause to be published, by notification in the Official Gazette, the names and such other particulars as may be relevant of—

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[20] Substituted for cls (*c*) and (*d*) by s 28, Indian I T (Amendment) Act, 1953, w e f 1-4-1952

[21] Substituted for "for the avoidance of double taxation on income which may be entered into by the Central Government under section 49AA" by s 27, F Act, 1956, w e f 1-4-1956

[22] Inserted by s 2, Indian I T (Amendment) Act, 1927

[23] Sub-ss (3) and (4) renumbered "(4)" and "(5)" respectively, *ibid*

[24] Substituted for "Gazette of India" by Government of India (Adaptation of Indian Laws) Order, 1937

[25] Inserted by s 9, Taxation Laws (Amendment) Act, 1960, w e f 1-4-1960

(*a*) persons on each of whom a penalty has been imposed at any time on or after the 1st day of April, 1960, under clause (*a*) or clause (*b*) of sub-section (1) of section 28, or

(*b*) persons on each of whom a penalty of an amount not exceeding the amount referred to in clause (*a*) of sub-section (1) has been imposed at any time on or after the 1st day of April, 1960, under clause (*c*) of sub-section (1) of section 28, or

(*c*) persons who have been convicted as a result of any proceedings initiated on or after the 1st day of April, 1960, under any provision of this Act other than section 52.

(3) No publication under this section shall be made—

(*i*) in the case of an assessee mentioned in clause (*a*) of sub-section (1) or in clause (*a*) or clause (*b*) of sub-section (2) who has presented an appeal under section 30 against the order of penalty, until the appeal is disposed of by the Appellate Assistant Commissioner,

(*ii*) in the case of an assessee mentioned in clause (*b*) of sub-section (1) or clause (*c*) of sub-section (2), until the time for appealing has expired without an appeal having been presented, or an appeal if presented has been disposed of

(4) Notwithstanding anything contained in this section, the Central Government may refrain from publishing the name of any person if it is satisfied that in the interests of revenue it is necessary so to do, and where the Central Government refrains from publishing the name of any person, the reason for not publishing the name shall be recorded in writing

(5) Every notification issued under this section shall be laid before Parliament as soon as may be after it is made

(6) The provisions of this section shall have effect notwithstanding anything to the contrary contained in section 54

Explanation —In the case of a firm, company or other association of persons, the names of the partners of the firm, directors, managing agents, secretaries and treasurers, or managers of the company, or the members of the association, as the case may be, may also be published if, in the opinion of the Central Government, the circumstances of the case justify it

Rr 0, 51 **59B. Disclosure of information respecting tax payable.**—Where a person makes an application to the Commissioner in the prescribed form and after payment of the prescribed fee for information as to the amount of tax determined as payable by any assessee in respect of any assessment made on or after the 1st day of April, 1960, the Commissioner may, notwithstanding anything contained in section 54, if he is satisfied that there are no circumstances justifying its refusal, furnish or cause to be furnished the information asked for]

60. Power to make exemption, etc.—[1][(1)] The [2][Central Government] may, by notification in the [3][Official Gazette], make an exemption, reduction in rate or other modification, in respect of income-tax in favour of any class of income, or in regard to the whole or any part of the income of any class of persons.

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[1] Inserted by s 10, Indian I T (Second Amendment) Act, 1930

[2] Substituted for "Governor General in Council" by Government of India (Adaptation of Indian Laws) Order, 1937

[3] Substituted for "Gazette of India", *ibid.*

[4][(2) Where, by reason of any portion of an assessee's salary being paid in arrears or in advance, [5][or by reason of his having received in any one financial year salary for more than twelve months] [6][or a payment which is under the provisions of sub-section (1) of section 7 a profit in lieu of salary], his income is assessed at a rate higher than that at which it would otherwise have been assessed, the [7][Central Government] may grant [8][the appropriate relief]]

[9][(3) After the commencement of the Indian Income-tax (Amendment) Act, 1939 (VII of 1939), the power conferred by sub-section (1) shall not be exercisable except for the purpose of rescinding an exemption, reduction or modification already made.]

[10][**60A. Power to make exemption, etc., in relation to [11][merged territories] [12][or to the territories which immediately before the 1st November, 1956, were comprised in any Part B State] [13][or to Chandernagore]**—If the Central Government considers it necessary or expedient so to do for avoiding any hardship or anomaly, or removing any difficulty, that may arise as a result of the extension of this Act to the [11][merged territories] [12][or to the territories which immediately before the 1st November, 1956, were comprised in any Part B State] [13][or to Chandernagore], the Central Government may, by general or special order, make an exemption, reduction in rate or other modification in respect of income-tax in favour of any class of income, or in regard to the whole or any part of the income of any person or class of persons:

Provided that the power conferred by this section shall not be exercisable [14][in the case of merged territories and [15][the territories which immediately before the 1st November, 1956, were comprised in Part B States] other than the State of Jammu and Kashmir, after the 31st day of March, 1955, and, in the case of the State of Jammu and Kashmir [13][and Chandernagore], after the 31st day of March, 1959,] except for the purpose of rescinding an exemption, reduction or modification already made]

[16][**60B. Tax may be levied for period other than previous year or deducted at source or paid in advance, wherever so provided.**—(1) Where by virtue of any provision of this Act income-tax or super-tax is to be charged in respect of the income of a period other than the previous year, the income-tax or super-tax, as the case may be, shall be charged accordingly

(2) In respect of income chargeable under this Act, income-tax or super-tax shall be deducted at the source or paid in advance, where it is so deductible or payable under any provision of this Act]

[17][**61. Appearance by authorised representative.**—(1) Any assessee, who is entitled or required to attend before [18][the Appellate Tribunal or] any Income-tax authority in connection with any proceeding under this Act otherwise than when required under section 37 to attend personally for examination on oath or affirmation, may attend by

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[4] Inserted by s 10, Indian I T (Second Amendment) Act, 1930
[5] Inserted by s 27, Indian I T (Second Amendment) Act, 1933
[6] Inserted by s 78, Indian I T (Amendment) Act, 1939
[7] Substituted for "Governor General in Council" by Government of India (Adaptation of Indian Laws) Order, 1937
[8] Substituted for "such relief as it may think fit" by s 78, Indian I T (Amendment) Act, 1939
[9] Inserted, *ibid*
[10] Inserted by s 19, Taxation Laws (Extension to Merged States and Amendment) Act, 1949
[11] Substituted for "merged States" by Adaptation of Laws Order, 1950.
[12] "Or to any Part B State" inserted by s 3, F Act, 1950, w e f 1-4-1950, and the present words substituted by Adaptation of Laws (No 3) Order, 1956, w e f 1-11-1956
[13] Inserted by s 18, F Act, 1955, w e f 1-4-1955
[14] Substituted for "after the 31st day of March, 1955" by s 2 and Sch , Taxation Laws (Extension to Jammu and Kashmir) Act, 1954
[15] Substituted for "Part B States" by Adaptation of Laws (No 3) Order, 1956, w e f 1-11-1956
[16] Retrospectively inserted by s 10, Taxation Laws (Amendment) Act, 1960
[17] Substituted by s 79, Indian I T (Amendment) Act, 1939
[18] Inserted by s. 11, Indian I T. (Amendment) Act, 1940

a person authorised by him in writing in this behalf, being a relative of or a person regularly employed by the assessee, or a lawyer or accountant or Income-tax practitioner, and not being disqualified by or under sub-section (3)

(2) In this section,—

(i) a person regularly employed by the assessee shall include any officer of a Scheduled Bank with which the assessee maintains a current account or has other regular dealings,

(ii) "lawyer" means a Barrister-at-Law or Solicitor or any other person entitled to plead in any Court of law in [19][the taxable territories],

R 44 (iii) "accountant" means a registered accountant enrolled in the Register of Accountants maintained by the Central Government under the Auditors Certificate Rules, 1932, or a holder of a restricted certificate under the Restricted Certificate Rules, 1932, or a member of an association of accountants recognised in this behalf by the Central Board of Revenue,

(iv) "Income-tax practitioner" means—

(a) any person who, before the 1st day of April, 1938, [20][in [21][the taxable territories], or before the 1st day of April, 1949, in any of the [22][merged territories],] [23][or before the 1st day of April, 1950, in any Part B State other than the State of Jammu and Kashmir,] [24][or before the 14th day of May, 1954, in the State of Jammu and Kashmir,] attended before an Income-tax authority on behalf of any assessee otherwise than in the capacity of an employee or relative of that assessee,

R 45 (b) any person who has passed any accountancy examination recognised in this behalf by the Central Board of Revenue, or

R 46 (c) any person who has acquired such educational qualifications as the Central Board of Revenue may prescribe for this purpose

(3) No person who has been dismissed from Government service after the 1st day of April, 1938, shall be qualified to represent an assessee under sub-section (1), and if any lawyer or registered accountant is found guilty of misconduct in connection with any income-tax proceedings by the authority empowered to take disciplinary action against members of the profession to which he belongs, or if any other person is found guilty of such misconduct by the Commissioner of Income-tax, the Commissioner of Income-tax may direct that he shall be thenceforward disqualified to represent an assessee under sub-section (1)

Provided that—

(a) no such direction shall be made in respect of any person unless he is given a reasonable opportunity of being heard,

(b) any person against whom such direction is made may, within one month of the making of the direction, appeal to the Central Board of Revenue to have the direction cancelled, and

(c) no such direction shall take effect until one month from the making thereof or, when an appeal is preferred, until the disposal of the appeal]

62. Receipts to be given.—A receipt shall be given for any money paid or recovered under this Act

19 Substituted for "British India" by Adaptation of Laws Order, 1950
20 Inserted by s 20, Taxation Laws (Extension to Merged States and Amendment) Act, 1949
21 Substituted for "British India" by Adaptation of Laws Order, 1950
22 Substituted for "merged States", *ibid*
23 Inserted by s 3, F Act, 1950, w e f 1-4-1950
24 Inserted by s 2 and Sch Taxation Laws (Extension to Jammu and Kashmir) Act, 1954

63. Service of notices.—(1) A notice or requisition under this Act may be served on the person therein named either by post or, as if it were a summons issued by a Court, under the Code of Civil Procedure, 1908 (V of 1908)

(2) Any such notice or requisition may, in the case of a firm or a Hindu undivided family, be addressed to any member of the firm or [25][to the] manager, or any adult male member of the family [1][and, in the case of any other [2][association of persons], be addressed to the principal officer thereof].

64. Place of assessment.—(1) Where an assessee carries on [3][a business, profession or vocation] at any place, he shall be assessed by the Income-tax Officer of the area in which that place is situate or, where the [3][business, profession or vocation] is carried on in more places than one, by the Income-tax Officer of the area in which [4][the principal place of his business, profession or vocation] is situate

(2) In all other cases, an assessee shall be assessed by the Income-tax Officer of the area in which he resides

(3) Where any question arises under this section as to the place of assessment, such question shall be determined by the Commissioner, or, where the question is between places in more [5][States] than one, by the Commissioners concerned, or, if they are not in agreement, by the [6][Central Board of Revenue]

Provided that, before any such question is determined, the assessee shall have had an opportunity of representing his views

[7][Provided further that the place of assessment shall not be called in question by an assessee if he has made a return in response to the notice under sub-section (1) of section 22 and has stated therein the principal place wherein he carries on his business, profession or vocation, or if he has not made such a return shall not be called in question after the expiry of the time allowed by the notice under sub-section (2) of section 22 or under section 34 for the making of a return

Provided further that if the place of assessment is called in question by an assessee the Income-tax Officer shall, if not satisfied with the correctness of the claim, refer the matter for determination under this sub-section before assessment is made]

(4) Notwithstanding anything contained in this section, every Income-tax Officer shall have all the powers conferred by or under this Act on an Income-tax Officer in respect of any income, profits or gains accruing or arising or received within the area for which he is appointed

[8][(5) The provisions of sub-section (1) and sub-section (2) shall not apply and shall be deemed never at any time to have applied to any assessee—

(*a*) on whom an assessment or reassessment for the purposes of this Act has been, is being or is to be made in the course of any case in respect of which a Commissioner of Income-tax appointed without reference to area under sub-section (2) of section 5 is exercising the functions of a Commissioner of Income-tax, or

(*b*) where by [9][any direction given or] any distribution or allocation of work made by the Commissioner of Income-tax under sub-section (5)

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25 Substituted for "on the" by s 2 and Sch I, Repealing and Amending Act, 1924
1 Inserted by s 9, Indian I T (Amendment) Act, 1924
2 Substituted for "association of individuals" by s 80, Indian I T (Amendment) Act, 1939
3 Substituted for "business" by s 81, *ibid*
4 Substituted for "his principal place of business", *ibid*
5 Substituted for "Provinces" by Adaptation of Laws Order, 1950
6 Substituted for "Board of Inland Revenue" by s 4 and Sch , Central Board of Revenue Act, 1924
7 Inserted by s 81, Indian I T (Amendment) Act, 1939
8 Inserted by s 6, I T Law Amendment Act, 1940
9 Inserted by s 12, Indian I T (Amendment) Act, 1940

of section 5, [10][or in consequence of any transfer made [11]* * un sub-section (7A) of section 5,] a particular Income-tax Officer has b charged with the function of assessing that assessee, or

(c) who or whose income is included in a class of persons or a class incomes specified in any notification issued under sub-section (6) section 5,

but the assessment of such person, whether the proceedings for such assessment be; before or after the 1st day of April, 1939, shall be made by the Income-tax Officer the time being charged with the function of making such assessment by the Cen Board of Revenue or by the Commissioner of Income-tax to whom he is subordin: as the case may be]

65. Indemnity.—Every person deducting, retaining, or paying any tax in p suance of this Act in respect of income belonging to another person is hereby inden fied for the deduction, retention or payment thereof

R 22A **66. Statement of case by Appellate Tribunal to High Court.**—[12][(1) Within si days of the date upon which he is served with notice of an order under sub-section of section 33 the assessee or the Commissioner may, by application in the prescri form, accompanied where application is made by the assessee by a fee of one hund rupees, require the Appellate Tribunal to refer to the High Court any question law arising out of such order, and the Appellate Tribunal shall within ninety days the receipt of such application draw up a statement of the case and refer it to the H Court

Provided that, if, in the exercise of its powers under sub-section (2), the Appell Tribunal refuses to state a case which it has been required by the assessee to state, assessee may, within thirty days from the date on which he receives notice of refusal to state the case, withdraw his application and, if he does so, the fee paid sl be refunded

(2) If on any application being made under sub-section (1) the Appellate Tribu refuses to state the case on the ground that no question of law arises, the assessee the Commissioner, as the case may be, may, within six months from the date on wh he is served with notice of the refusal, apply to the High Court, and the High Co may, if it is not satisfied of the correctness of the decision of the Appellate Tribur require the Appellate Tribunal to state the case and to refer it, and on receipt of a such requisition the Appellate Tribunal shall state the case and refer it accordingly

(3) If on any application being made under sub-section (1) the Appellate Tribu rejects it on the ground that it is time-barred, the assessee or the Commissioner, as case may be, may, within two months from the date on which he is served with noi of the rejection, apply to the High Court, and the High Court, if it is not satisfied of correctness of the Appellate Tribunal's decision, may require the Appellate Tribunal treat the application as made within the time allowed under sub-section (1)

(4) If the High Court is not satisfied that the statements in a case referred un this section are sufficient to enable it to determine the question raised thereby, Court may refer the case back to the Appellate Tribunal to make such additions the to or alterations therein as the Court may direct in that behalf

(5) The High Court upon the hearing of any such case shall decide the questio of law raised thereby and shall deliver its judgment thereon containing the grounds which such decision is founded and shall send a copy of such judgment under the s

[10] Inserted by s 12, Indian I T (Amendment) Act, 1940

[11] "By him" retrospectively omitted by s 21, Taxation Laws (Extension to Merged States a Amendment) Act, 1949

[12] Sub-ss (1) to (5) substituted by s 92, Indian I T (Amendment) Act, 1939

of the Court and the signature of the Registrar to the Appellate Tribunal which shall pass such orders as are necessary to dispose of the case conformably to such judgment]

(6) Where a reference is made to the High Court [13]* * the costs shall be in the discretion of the Court

(7) Notwithstanding that a reference has been made under this section to the High Court, income-tax shall be payable in accordance with the assessment made in the case

Provided that, if the amount of an assessment is reduced as a result of such reference, the amount overpaid shall be refunded with such interest as the Commissioner may allow [14][unless the High Court, on intimation given by the Commissioner within thirty days of the receipt of the result of such reference that he intends to ask for leave to appeal to [15][the Supreme Court], makes an order authorising the Commissioner to postpone payment of such refund until the disposal of the appeal to [15][the Supreme Court]]

[16][(7A) Section 5 of the Indian Limitation Act, 1908 (IX of 1908), shall apply to an application to the High Court by an assessee [17][under sub-section (2) or sub-section (3)]]

[18][(8) For the purposes of this section, "the High Court" means—

(*a*) in relation to any State, the High Court for that State,

(*b*) in relation to the Union territories of Delhi and Himachal Pradesh, the High Court of Punjab,

(*c*) in relation to the Union territories of Manipur and Tripura, the High Court of Assam,

(*d*) in relation to the Union territory of the Andaman and Nicobar Islands, the High Court at Calcutta, and

(*e*) in relation to the Union territory of the Laccadive, Minicoy and Amindivi Islands, the High Court of Kerala]

[19][**66A. Reference to be heard by Benches of High Courts and appeal to lie in certain cases to [20][the Supreme Court].**—(1) When any case has been referred to the High Court under section 66, it shall be heard by a Bench of not less than two Judges of the High Court, [21][and shall be decided in accordance with the opinion of such Judges or of the majority (if any) of such Judges

Provided that where there is no such majority, the Judges shall state the point of law upon which they differ, and the case shall then be heard upon that point only by one or more of the other Judges of the High Court, and such point shall be decided according to the opinion of the majority of the Judges who have heard the case, including those who first heard it]

[22]* * * * *

[13] "On the application of an assessee" omitted by s 92, Indian I T (Amendment) Act, 1939
[14] Inserted by s 82, *ibid*
[15] Substituted for "His Majesty in Council" by Adaptation of Laws Order, 1950
[16] Inserted by s 28, Indian I T (Second Amendment) Act, 1933
[17] Substituted for "under sub-section (3) or sub-section (3A)" by s 92, Indian I T (Amendment) Act, 1939
[18] Substituted by Adaptation of Laws (No 3) Order, 1956, w e f 1-11-1956
[19] Inserted by s 8, Indian I T (Amendment) Act, 1926
[20] Substituted for "His Majesty in Council" by Adaptation of Laws Order, 1950
[21] Substituted for "and in respect of such case the provisions of section 98 of the Code of Civil Procedure, 1908 (V of 1908), shall, so far as may be, apply notwithstanding anything contained in the Letters Patent of any High Court established by Letters Patent or in any other law for the time being in force" by s 29, Indian I T (Amendment) Act, 1953, w e f 1-4-1952
[22] The proviso omitted by India (Adaptation of Income-tax, Profits Tax and Revenue Recovery Acts) Order, 1947

(2) An appeal shall lie to [23][the Supreme Court] from any judgment of the High Court delivered on a reference made under section 66 in any case which the High Court certifies to be a fit one for appeal to [23][the Supreme Court]

(3) The provisions of the Code of Civil Procedure, 1908 (V of 1908), relating to appeals to [23][the Supreme Court] shall, so far as may be, apply in the case of appeals under this section in like manner as they apply in the case of appeals from decrees of a High Court

Provided that nothing in this sub-section shall be deemed to affect the provisions of sub-section (5) or sub-section (7) of section 66

Provided further that the High Court may, on petition made for the execution of the order of [23][the Supreme Court] in respect of any costs awarded thereby, transmit the order for execution to any Court subordinate to the High Court.

(4) Where the judgment of the High Court is varied or reversed in appeal under this section, effect shall be given to the order of [23][the Supreme Court] in the manner provided in sub-sections (5) and (7) of section 66 in the case of a judgment of the High Court

(5) [24]* * * * *]

67. **Bar of suits in Civil Court.**—No suit shall be brought in any Civil Court to set aside or modify any assessment made under this Act, and no prosecution, suit or other proceeding shall lie against any [25][officer of the Government] for anything in good faith done or intended to be done under this Act

[1][67A. **Computation of periods of limitation.**—In computing the period of limitation prescribed for an appeal under this Act or for an application under section 66, the day on which the order complained of was made, and the time requisite for obtaining a copy of such order, shall be excluded]

[2][67B. **Act to have effect pending legislative provision for charge of income-tax.**—If on the 1st day of April in any year provision has not yet been made by [3][a Central Act] for the charging of income-tax for that year, this Act shall nevertheless have effect until such provision is so made as if the provision in force in the preceding year or the provision proposed in the Bill then before [4][Parliament], whichever is more favourable to the assessee, were actually in force]

68 **Repeals** —*Repealed by the Repealing Act, 1927*

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23 Substituted for "His Majesty in Council" by Adaptation of Laws Order, 1950
24 Omitted by Adaptation of Laws Order, 1950
25 Substituted for "officer of the Crown" by Adaptation of Laws Order, 1950 "Officer of the Crown" substituted for "Government Officer" by Government of India (Adaptation of Indian Laws) Order, 1937

1 Inserted by s 12, Indian I T (Second Amendment) Act, 1930
2 Inserted by s 7, I T Law Amendment Act, 1940
3 Substituted for "an Act of the Indian Legislature" by Adaptation of Laws Order, 1950
4 Substituted for "the Legislature", *ibid*

[5][THE SCHEDULE

[See section 10(7)]

RULES FOR THE COMPUTATION OF THE PROFITS AND GAINS OF INSURANCE BUSINESS

1. In the case of any person who carries on, or at any time in the preceding year carried on, life insurance business, the profits and gains of such person from that business shall be computed separately from his income, profits or gains from any other business

2. The profits and gains of life insurance business shall be taken to be either—

(*a*) the gross external incomings of the preceding year from that business less the management expenses of that year, or

(*b*) the annual average of the surplus [6][arrived at by adjusting the surplus or deficit] disclosed by the actuarial valuation made [7][in accordance with the Insurance Act, 1938 (IV of 1938), in respect of] the last inter-valuation period ending before the year for which the assessment is to be made, [8]* * so as to exclude from it any surplus or deficit included therein which was made in any earlier inter-valuation period and any expenditure other than expenditure which may under the provisions of section 10 of this Act be allowed for in computing the profits and gains of a business,

whichever is the greater

Provided that the amount to be allowed as management expenses shall not exceed—

(*a*) 7½ per cent of the premiums received during the preceding year in respect of single premium life insurance policies, *plus*

(*b*) in respect of the first year's premiums received in respect of other life insurance policies for which the number of annual premiums [9][payable] is less than twelve, or for which the number of years during which premiums are payable is less than twelve, for each such premium or each such year 7½ per cent of such first year's premiums received during the preceding year, *plus*

[10][(*c*) 90 per cent of the first year's premiums received during the preceding year in respect of all other life insurance policies, *plus*

[11][(*d*) in respect of all renewal premiums received during the preceding year an amount calculated at such percentage thereof as is permissible under sub-section (2) of section 40B of the Insurance Act, 1938 (IV of 1938), as reduced by any expenditure which is not admissible under section 10 of this Act]]

3. In computing the surplus for the purpose of rule 2,—

(*a*) [11][four-fifths] of the amounts paid to or reserved for or expended on behalf of policy-holders shall be allowed as a deduction

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[5] The original Schedule repealed by Repealing Act, 1927, and this Schedule inserted by s 84, Indian I T (Amendment) Act, 1939

[6] Inserted by s 8, I T Law Amendment Act, 1940

[7] Substituted for "for" by s 30, Indian I T (Amendment) Act, 1953, w e f 1-4-1951 The amendment also applies to completed assessments

[8] "After adjusting such surplus" omitted by s 8, I T Law Amendment Act, 1940

[9] Substituted for "received" by s 14, Indian I T (Amendment) Act, 1944

[10] Cls (*c*) and (*d*) substituted, *ibid*

[11] Cl (*d*) further substituted, and "four-fifths" substituted for "one-half", by s 30, Indian I T (Amendment) Act, 1953, w e f 1-4-1951 The amendments also apply to completed assessments

Provided that in the first such computation made under this rule of any such surplus no account shall be taken of any such amounts to the extent to which they are paid out of or in respect of any surplus brought forward from a previous inter-valuation period

Provided further that if any amount so reserved for policy-holders ceases to be so reserved, and is not paid to or expended on behalf of policy-holders [12][that proportion of such amount (one-half or four-fifths, as the case may be)], if it has been previously allowed as a deduction, shall be treated as part of the surplus for the period in which the said amount ceased to be so reserved,

(*b*) any amount either written off or reserved in the accounts or through the actuarial valuation balance sheet to meet depreciation of or loss on the realisation of securities or other assets shall be allowed as a deduction, and any sums taken credit for in the accounts or actuarial valuation balance sheet on account of appreciation of or gains on the realisation of the securities or other assets shall be included in the surplus

Provided that if upon investigation it appears to the Income-tax Officer after consultation with the [13][Controller of Insurance] that having due regard to the necessity for making reasonable provision for bonuses to participating policy-holders and for contingencies, the rate of interest or other factor employed in determining the liability in respect of outstanding policies is materially inconsistent with the valuation of the securities and other assets so as artificially to reduce the surplus, such adjustment shall be made to the allowance for depreciation of, or to the amount to be included in the surplus in respect of appreciation of, such securities and other assets, as shall increase the surplus for the purposes of these rules to a figure which is fair and just,

[14][(*c*) interest received in respect of any securities of the Central Government which have been issued or declared to be income-tax free shall not be excluded but the whole amount of such interest received during the inter-valuation period shall be exempt from income-tax under the second proviso to section 8 though not from super-tax]

4. Where for any year an assessment is made in accordance with the annual average of a surplus disclosed by a valuation for an inter-valuation period exceeding twelve months, then, in computing the tax payable for that year, credit shall not be given in accordance with sub-section (5) of section 18 for the tax paid in the preceding year, but credit shall be given for the annual average of the income-tax paid by deduction at source from interest on securities or otherwise during such period

5. For the purposes of these rules—

(*i*) "preceding year" means that year for which annual accounts are required to be prepared under the Insurance Act, 1938, immediately preceding the year for which the assessment is to be made or until the commencement of the Insurance Act, 1938, the previous year as defined in section 2 of this Act,

(*ii*) "gross external incomings" means the full amount of incomings from interest, dividends, fines and fees and all other incomings from whatever source derived (except premiums received from policy-holders and interest and dividends on any annuity fund) and includes also profits from

[12] Substituted for "one-half of such amount" by s 30, Indian I T (Amendment) Act, 1953, w e f 1-4-1951 The amendment also applies to completed assessments

[13] Substituted for "Superintendent of Insurance" by s 30, Indian I T Amendment Act, 1953, w e f 1-4-1951

[14] Substituted by s 14, Indian I T (Amendment) Act, 1944

reversions and on the sale or the granting of annuities, but excludes profits on the realisation of securities [15][or other assets]

Provided that incomings, including the annual value of the property occupied by the assessee, which but for the provisions of sub-section (7) of section 10 would have been assessable under section 9 shall be computed upon the basis laid down in the last-named section, and that there shall be allowed from such gross incomings such deductions as are permissible under that section,

(*iii*) "management expenses" means the full amount of expenses (including commissions) incurred exclusively in the management of the business of life insurance, and in the case of a company carrying on other classes of business as well as the business of life insurance in addition thereto a fair proportion of the expenses incurred in the general management of the whole business Bonuses or other sums paid to or reserved on behalf of policy-holders, depreciation of, and losses on the realisation of, securities [15][or other assets] and any expenditure other than expenditure which may under the provisions of section 10 of this Act be allowed for in computing the profits and gains of a business are not management expenses for the purposes of these rules,

(*iv*) "life insurance business" means life insurance business as defined in clause (*11*) of section 2 of the Insurance Act, 1938,

(*v*) "securities" includes stocks and shares

6. The profits and gains of any business of insurance other than life insurance shall be taken to be the balance of the profits disclosed by the annual accounts, copies of which are required under the Insurance Act, 1938, to be furnished to the [16][Controller of Insurance] after adjusting such balance so as to exclude from it any expenditure other than expenditure which may under the provisions of section 10 of this Act be allowed for in computing the profits and gains of a business Profits and losses on the realisation of investments and depreciation and appreciation of the value of investments shall be dealt with as provided in rule 3 for the business of life insurance

7. The profits and gains of companies carrying on dividing societies or assessment business shall be taken to be 15 per cent of the premium income of the previous year, or in the case of non-resident companies 15 per cent of the [17][premium income of the previous year derived from the taxable territories]

[18][**8.** The profits and gains of the branches in the taxable territories of a person not resident in the taxable territories and carrying on any business of insurance, may, in the absence of more reliable data be deemed to be that proportion of the world income of such person which corresponds to the proportion which his premium income derived from the taxable territories bears to his total premium income

For the purposes of this rule, the world income in relation to life insurance business of a person not resident in the taxable territories shall be computed in the manner laid down in these rules for the computation of the profits and gains of life insurance business carried on in the taxable territories]

9. These rules apply to the assessment of the profits of any business of insurance carried on [19][by a mutual insurance association] [20][or by a co-operative society]]

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[15] Inserted by s 14, Indian I T (Amendment) Act, 1944

[16] Substituted for "Superintendent of Insurance" by s 30, Indian I T (Amendment) Act, 1953, w e f 1-4-1951

[17] Substituted for "British Indian premium income of the previous year" by Adaptation of Laws Order, 1950

[18] Substituted by s 30, Indian I T (Amendment) Act, 1953, w e f 1-4-1951 The amendment also applies to completed assessments

[19] Substituted for "by a mutual insurance company" by s 13, Indian I T (Amendment) Act, 1940

[20] Inserted by s 19, F Act, 1955, w e f 1-4-1955

DIVISION 2

THE INCOME-TAX ACT, 1961

NOTE.—(1) Where an amendment is made with retrospective effect from a particular date, the footnote indicates that the amendment is "w. e. f." that date. If the amendment has full retrospectivity, *i.e.* from the date of the commencement of the Act or of the relevant statutory provision to which the amendment relates, the expression "retrospectively" *simpliciter* is used in the footnote.

(2) References in the margin are to the Income-tax Rules, 1962.

LAWS AMENDING THE INCOME-TAX ACT, 1961

(References are to the pages of the STATUTES SECTION of ITR)

The Finance (No 2) Act, 1962 (20 of 1962)	46 ITR 17
The Taxation Laws (Amendment) Act, 1962 (54 of 1962)	48 ITR 1
The Taxation Laws (Extension to Union Territories) Regulation, 1963 (3 of 1963)	48 ITR 93
The Finance Act, 1963 (13 of 1963)	49 ITR 5
The Income-tax (Amendment) Act, 1963 (43 of 1963)	51 ITR 1
The Central Boards of Revenue Act, 1963 (54 of 1963)	51 ITR 5
The Finance Act, 1964 (5 of 1964)	52 ITR 5
The Direct Taxes (Amendment) Act, 1964 (31 of 1964)	54 ITR 9
The Income-tax (Amendment) Act, 1965 (1 of 1965)	56 ITR 1
The Finance Act, 1965 (10 of 1965)	56 ITR 25
The Finance (No 2) Act, 1965 (15 of 1965)	58 ITR 1
The State of Nagaland (Adaptation of Laws on Union Subjects) Order, 1965	59 ITR 4
The Taxation Laws (Amendment and Miscellaneous Provisions) Act, 1965 (41 of 1965)	59 ITR 1
The Finance Act, 1966 (13 of 1966)	60 ITR 17
The Finance (No 2) Act, 1967 (20 of 1967)	65 ITR 25
The Taxation Laws (Amendment) Act, 1967 (27 of 1967)	67 ITR 9
The Finance Act, 1968 (19 of 1968)	68 ITR 33
The Punjab Reorganisation and Delhi High Court (Adaptation of Laws on Union Subjects) Order, 1968	70 ITR 25
The Finance Act, 1969 (14 of 1969)	72 ITR 21
The Finance Act, 1970 (19 of 1970)	76 ITR 121
The Taxation Laws (Amendment) Act, 1970 (42 of 1970)	79 ITR 1
The Finance (No 2) Act, 1971 (32 of 1971)	81 ITR 81
The Finance Act, 1972 (16 of 1972)	84 ITR 49
The Income-tax (Amendment) Act, 1972 (41 of 1972)	85 ITR 163
The Taxation Laws (Amendment) Act, 1972 (45 of 1972)	85 ITR 145
The Rulers of Indian States (Abolition of Privileges) Act, 1972 (54 of 1972)	86 ITR 45
The State of Himachal Pradesh (Adaptation of Laws on Union Subjects) Order, 1973	88 ITR 79
The Finance Act, 1973 (21 of 1973)	89 ITR 1
The Income-tax (Amendment) Act, 1973 (66 of 1973)	93 ITR 29
The North-Eastern Areas (Reorganisation) (Adaptation of Laws on Union Subjects) Order, 1974	94 ITR 12
The Finance Act, 1974 (20 of 1974)	94 ITR 33
The Direct Taxes (Amendment) Act, 1974 (26 of 1974)	95 ITR 152
The Finance (No 2) Act, 1974 (31 of 1974)	96 ITR 1

The Laccadive, Minicoy and Amindivi Islands (Alteration of Name) Adaptation of Laws Order, 1974	98 ITR 23
The Finance Act, 1975 (25 of 1975)	99 ITR 133
The Taxation Laws (Amendment) Act, 1975 (41 of 1975)	100 ITR 33
The Income-tax (Amendment) Act, 1976 (1 of 1976)	
The Payment of Bonus (Amendment) Act, 1976 (23 of 1976)	

THE INCOME-TAX ACT, 1961

ACT No. XLIII OF 1961

[13th September 1961]

An Act to consolidate and amend the law relating to income-tax and super-tax

Be it enacted by Parliament in the Twelfth Year of the Republic of India as follows —

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Income-tax Act, 1961

(2) It extends to the whole of India

(3) Save as otherwise provided in this Act, it shall come into force on the 1st day of April, 1962

2. Definitions.—In this Act, unless the context otherwise requires,—

(*1*) "agricultural income" means— Rr 7, 8

[1][(*a*) any rent or revenue derived from land which is situated in India and is used for agricultural purposes,]

(*b*) any income derived from such land by—

(*i*) agriculture, or

(*ii*) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or

(*iii*) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in paragraph (*ii*) of this sub-clause,

(*c*) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator or the receiver of rent-in-kind, of any land with respect to which, or the produce of which, any process mentioned in paragraphs (*ii*) and (*iii*) of sub-clause (*b*) is carried on

[1][Provided that—

(*i*) the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator, or the receiver of rent-in-kind, by reason of his connection with the land, requires as a dwelling house, or as a store-house, or other out-building, and

(*ii*) the land is either assessed to land revenue in India or is subject to a local rate assessed and collected by officers of the Government as

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[1] Retrospectively substituted by s 2, Taxation Laws (Amendment) Act, 1970

such or where the land is not so assessed to land revenue or subject to a local rate, it is not situated—

(*A*) in any area which is comprised within the jurisdiction of a municipality (whether known as a municipality, municipal corporation, notified area committee, town area committee, town committee or by any other name) or a cantonment board and which has a population of not less than ten thousand according to the last preceding census of which the relevant figures have been published before the first day of the previous year, or

(*B*) in any area within such distance, not being more than eight kilometres, from the local limits of any municipality or cantonment board referred to in item (*A*), as the Central Government may, having regard to the extent of, and scope for, urbanisation of that area and other relevant considerations, specify in this behalf by notification in the Official Gazette,]

[2][(*1A*) "amalgamation", in relation to companies, means the merger of one or more companies with another company or the merger of two or more companies to form one company (the company or companies which so merge being referred to as the amalgamating company or companies and the company with which they merge or which is formed as a result of the merger, as the amalgamated company) in such a manner that—

(*i*) all the property of the amalgamating company or companies immediately before the amalgamation becomes the property of the amalgamated company by virtue of the amalgamation,

(*ii*) all the liabilities of the amalgamating company or companies immediately before the amalgamation become the liabilities of the amalgamated company by virtue of the amalgamation,

(*iii*) shareholders holding not less than nine-tenths in value of the shares in the amalgamating company or companies (other than shares already held therein immediately before the amalgamation by, or by a nominee for, the amalgamated company or its subsidiary) become shareholders of the amalgamated company by virtue of the amalgamation,

otherwise than as a result of the acquisition of the property of one company by another company pursuant to the purchase of such property by the other company or as a result of the distribution of such property to the other company after the winding up of the first-mentioned company,]

(*2*) "annual value", in relation to any property, means its annual value as determined under section 23,

(*3*) "Appellate Assistant Commissioner" means a person appointed to be an Appellate Assistant Commissioner of Income-tax under sub-section (1) of section 117,

(*4*) "Appellate Tribunal" means the Appellate Tribunal constituted under section 252,

(*5*) "approved gratuity fund" means a gratuity fund which has been and continues to be approved by the Commissioner in accordance with the rules contained in Part C of the Fourth Schedule,

[2] Inserted by s 4, F (No 2) Act, 1967, w e f 1-4-1967

(*6*) "approved superannuation fund" means a superannuation fund or any part of a superannuation fund which has been and continues to be approved by the Commissioner in accordance with the rules contained in Part B of the Fourth Schedule,

(*7*) "assessee" means a person by whom [3][any tax] or any other sum of money is payable under this Act, and includes—

(*a*) every person in respect of whom any proceeding under this Act has been taken for the assessment of his income or of the income of any other person in respect of which he is assessable, or of the loss sustained by him or by such other person, or of the amount of refund due to him or to such other person,

(*b*) every person who is deemed to be an assessee under any provision of this Act,

(*c*) every person who is deemed to be an assessee in default under any provision of this Act,

(*8*) "assessment" includes reassessment,

(*9*) "assessment year" means the period of twelve months commencing on the 1st day of April every year,

(*10*) "average rate of income-tax" means the rate arrived at by dividing the amount of income-tax calculated on the total income, by such total income,

(*11*) [4]* * * * *

(*12*) "Board" means the [5][Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963 (LIV of 1963)],

(*13*) "business" includes any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture,

(*14*) "capital asset" means property of any kind held by an assessee, whether or not connected with his business or profession, but does not include—

(*i*) any stock-in-trade, consumable stores or raw materials held for the purposes of his business or profession,

[6][(*ii*) personal effects, that is to say, movable property (including wearing apparel and furniture, but excluding jewellery) held for personal use by the assessee or any member of his family dependent on him,

Explanation—For the purposes of this sub-clause, "jewellery" includes—

(*a*) ornaments made of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals, whether or not containing any precious or semi-precious stone, and whether or not worked or sewn into any wearing apparel,

(*b*) precious or semi-precious stones, whether or not set in any furniture, utensil or other article or worked or sewn into any wearing apparel,]

[7][(*iii*) agricultural land in India, not being land situate—

(*a*) in any area which is comprised within the jurisdiction of a municipality (whether known as a municipality, municipal corporation,

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[3] Substituted for "income-tax or super-tax" by s 4, F Act, 1965, w e f 1-4-1965

[4] Omitted by s 4, F Act, 1965, w e f 1-4-1965

[5] Substituted for "Central Board of Revenue constituted under the Central Board of Revenue Act, 1924 (IV of 1924)" by s 5, Central Boards of Revenue Act, 1963, w e f 1-1-1964

[6] Substituted by s 3, F Act, 1972, w e f 1-4-1973

[7] Substituted for "(*iii*) agricultural land in India" by s 3, F Act, 1970, w e f 1-4-1970

notified area committee, town area committee, town committee, or by any other name) or a cantonment board and which has a population of not less than ten thousand according to the last preceding census of which the relevant figures have been published before the first day of the previous year, or

(b) in any area within such distance, not being more than eight kilometres, from the local limits of any municipality or cantonment board referred to in item (a), as the Central Government may, having regard to the extent of, and scope for, urbanisation of that area and other relevant considerations, specify in this behalf by notification in the Official Gazette,]

[8][(iv) 6½ per cent Gold Bonds, 1977, [9][or 7 per cent Gold Bonds, 1980,] [10][or National Defence Gold Bonds, 1980,] issued by the Central Government,]

(15) "charitable purpose" includes relief of the poor, education, medical relief, and the advancement of any other object of general public utility not involving the carrying on of any activity for profit,

[11][(15A) "child", in relation to an individual, includes a step-child and an adopted child of that individual,]

[12][(16) "Commissioner" means a person appointed to be a Commissioner of Income-tax under sub-section (1) of section 117, and includes a person appointed to be an Additional Commissioner of Income-tax under that sub-section,]

[13][(17) "company" means—

(i) any Indian company, or

(ii) any body corporate incorporated by or under the laws of a country outside India, or

(iii) any institution, association or body which is or was assessable or was assessed as a company for any assessment year under the Indian Income-tax Act, 1922 (XI of 1922), or which is or was assessable or was assessed under this Act as a company for any assessment year commencing on or before the 1st day of April, 1970, or

(iv) any institution, association or body, whether incorporated or not and whether Indian or non-Indian, which is declared by general or special order of the Board to be a company

Provided that such institution, association or body shall be deemed to be a company only for such assessment year or assessment years (whether commencing before the 1st day of April, 1971, or on or after that date) as may be specified in the declaration,]

(18) "company in which the public are substantially interested"—a company is said to be a company in which the public are substantially interested—

[14][(a) if it is a company owned by the Government or the Reserve Bank of India or in which not less than forty per cent of the shares are held

[8] Inserted by s 2, Taxation Laws (Amendment) Act, 1962, w e f 13-12-1962
[9] Inserted by s 2, F (No 2) Act, 1965, w e f 1-4-1965
[10] Inserted by s 2, Taxation Laws (Amendment and Miscellaneous Provisions) Act, 1965, w e f 4-12-1965
[11] Inserted by s 2, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976
[12] Substituted by s 3, F Act, 1970, w e f 1-4-1970
[13] Substituted by s 3, F (No 2) Act, 1971, w e f 1-4-1971
[14] Substituted by s 4, F Act, 1964, w e f 1-4-1964

(whether singly or taken together) by the Government or the Reserve Bank of India or a corporation owned by that bank, or]

[15][(*aa*) if it is a company which is registered under section 25 of the Companies Act, 1956 (I of 1956), or

(*ab*) if it is a company having no share capital and if, having regard to its objects, the nature and composition of its membership and other relevant considerations, it is declared by order of the Board to be a company in which the public are substantially interested

Provided that such company shall be deemed to be a company in which the public are substantially interested only for such assessment year or assessment years (whether commencing before the 1st day of April, 1971, or on or after that date) as may be specified in the declaration, or]

[16][(*b*) if it is a company which is not a private company as defined in the Companies Act, 1956 (I of 1956), and the conditions specified either in item (*A*) or in item (*B*) are fulfilled, namely —

(*A*) shares in the company (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) were, as on the last day of the relevant previous year, listed in a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (XLII of 1956), and any rules made thereunder,

(*B*) (*i*) shares in the company (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than fifty per cent of the voting power have been allotted unconditionally to, or acquired unconditionally by, and were throughout the relevant previous year beneficially held by—

(*a*) the Government, or

(*b*) a corporation established by a Central, State or Provincial Act, or

(*c*) any company to which this clause applies or any subsidiary company of such company where such subsidiary company fulfils the conditions laid down in clause (*b*) of section 108 (hereafter in this clause referred to as the subsidiary company), or

(*d*) the public (not being a director, or a company to which this clause does not apply),

(*ii*) the said shares were, during the relevant previous year, freely transferable by the holder to the other members of the public, and

(*iii*) the affairs of the company, or the shares carrying more than fifty per cent of its total voting power were at no time, during the relevant previous year, controlled or held by five or less persons,

Explanation 1 —In computing the number of five or less persons aforesaid,—

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[15] Inserted by s 3, F (No 2) Act, 1971, w e f 1-4-1971
[16] Substituted by s 3, F Act, 1969, w e f 1-4-1970

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(i) the Government or any corporation established by a Central, State or Provincial Act or a company to which this clause applies or the subsidiary company of such company shall not be taken into account, and

(ii) persons who are relatives of one another, and persons who are nominees of any other person together with that other person, shall be treated as a single person;

Explanation 2.—In its application to an Indian company whose business consists mainly in the construction of ships or in the manufacture or processing of goods or in mining or in the generation or distribution of electricity or any other form of power, item (*B*) shall have effect as if for the words "not less than fifty per cent" and "more than fifty per cent", the words "not less than forty per cent" and "more than sixty per cent" had, respectively, been substituted;]

(*19*) "co-operative society" means a co-operative society registered under the Co-operative Societies Act, 1912 (II of 1912), or under any other law for the time being in force in any State for the registration of co-operative societies;

(*20*) "director", "manager" and "managing agent", in relation to a company, have the meanings respectively assigned to them in the Companies Act, 1956 (I of 1956);

(*21*) "Director of Inspection" means a person appointed to be a Director of Inspection under sub-section (1) of section 117, and includes a person appointed to be an Additional Director of Inspection, a Deputy Director of Inspection or an Assistant Director of Inspection;

(*22*) "dividend" includes—

(*a*) any distribution by a company of accumulated profits, whether capitalised or not, if such distribution entails the release by the company to its shareholders of all or any part of the assets of the company;

(*b*) any distribution to its shareholders by a company of debentures, debenture-stock, or deposit certificates in any form, whether with or without interest, and any distribution to its preference shareholders of shares by way of bonus, to the extent to which the company possesses accumulated profits, whether capitalised or not;

(*c*) any distribution made to the shareholders of a company on its liquidation, to the extent to which the distribution is attributable to the accumulated profits of the company immediately before its liquidation, whether capitalised or not;

(*d*) any distribution to its shareholders by a company on the reduction of its capital, to the extent to which the company possesses accumulated profits which arose after the end of the previous year ending next before the 1st day of April, 1933, whether such accumulated profits have been capitalised or not;

(*e*) any payment by a company, not being a company in which the public are substantially interested, of any sum (whether as representing a part of the assets of the company or otherwise) by way of advance or loan to a shareholder, being a person who has a substantial interest in the company, or any payment by any such company on behalf, or for the

individual benefit, of any such shareholder, to the extent to which the company in either case possesses accumulated profits,

but "dividend" does not include—

(*i*) a distribution made in accordance with sub-clause (*c*) or sub-clause (*d*) in respect of any share issued for full cash consideration, where the holder of the share is not entitled in the event of liquidation to participate in the surplus assets,

[17][(*i-a*) a distribution made in accordance with sub-clause (*c*) or sub-clause (*d*) in so far as such distribution is attributable to the capitalised profits of the company representing bonus shares allotted to its equity shareholders after the 31st day of March, 1964, [18][and before the 1st day of April, 1965],]

(*ii*) any advance or loan made to a shareholder by a company in the ordinary course of its business, where the lending of money is a substantial part of the business of the company,

(*iii*) any dividend paid by a company which is set off by the company against the whole or any part of any sum previously paid by it and treated as a dividend within the meaning of sub-clause (*e*), to the extent to which it is so set off,

Explanation 1 —The expression "accumulated profits", wherever it occurs in this clause, shall not include capital gains arising before the 1st day of April, 1946, or after the 31st day of March, 1948, and before the 1st day of April, 1956,

Explanation 2 —The expression "accumulated profits" in sub-clauses (*a*), (*b*), (*d*) and (*e*), shall include all profits of the company up to the date of distribution or payment referred to in those sub-clauses, and in sub-clause (*c*) shall include all profits of the company up to the date of liquidation, [19][but shall not, where the liquidation is consequent on the compulsory acquisition of its undertaking by the Government or a corporation owned or controlled by the Government under any law for the time being in force, include any profits of the company prior to three successive previous years immediately preceding the previous year in which such acquisition took place],

[20][(*22A*) "fair market value", in relation to a capital asset, means—

(*i*) the price that the capital asset would ordinarily fetch on sale in the open market on the relevant date, and

(*ii*) where the price referred to in sub-clause (*i*) is not ascertainable, such price as may be determined in accordance with the rules made under this Act,]

(*23*) "firm", "partner" and "partnership" have the meanings respectively assigned to them in the Indian Partnership Act, 1932 (IX of 1932), but the expression "partner" shall also include any person who, being a minor, has been admitted to the benefits of partnership,

(*24*) "income" includes—

(*i*) profits and gains,

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[17] Inserted by s 4, F Act, 1965, w e f 1-4-1965
[18] Inserted by s 4, F Act, 1966, w e f 1-4-1966
[19] Retrospectively inserted by s 2, Direct Taxes (Amendment) Act, 1964
[20] Inserted by s 4, F Act, 1964, w e f 1-4-1964

(ii) dividend,

[21][(ii-a) voluntary contributions received by a trust created wholly or partly for charitable or religious purposes or by an institution established wholly or partly for such purposes, not being contributions made with a specific direction that they shall form part of the corpus of the trust or institution,

Explanation.—For the purposes of this sub-clause, "trust" includes any other legal obligation,]

(iii) the value of any perquisite or profit in lieu of salary taxable under clauses (2) and (3) of section 17,

(iv) the value of any benefit or perquisite, whether convertible into money or not, obtained from a company either by a director or by a person who has a substantial interest in the company, or by a relative of the director or such person, and any sum paid by any such company in respect of any obligation which, but for such payment, would have been payable by the director or other person aforesaid,

(v) any sum chargeable to income-tax under clauses (ii) and (iii) of section 28 or section 41 or section 59,

[22][(v-a) the value of any benefit or perquisite taxable under clause (iv) of section 28,]

(vi) any capital gains chargeable under section 45,

(vii) the profits and gains of any business of insurance carried on by a mutual insurance company or by a co-operative society, computed in accordance with section 44 or any surplus taken to be such profits and gains by virtue of provisions contained in the First Schedule,

[22][(viii) any annuity due, or commuted value of any annuity paid, under the provisions of section 280D,]

[23][(ix) any winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature whatsoever,]

(25) "Income-tax Officer" means a person appointed to be an Income-tax Officer under section 117,

[24][(25A) "India" shall be deemed to include the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry,—

(a) as respects any period, for the purposes of section 6, and

(b) as respects any period included in the previous year, for the purposes of making any assessment for the assessment year commencing on the 1st day of April, 1963, or for any subsequent year,]

(26) "Indian company" means a company formed and registered under the Companies Act, 1956 (I of 1956), and includes—

(i) a company formed and registered under any law relating to companies formerly in force in any part of India (other than the State of Jammu

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[21] Inserted by s 3, F Act, 1972, w e f 1-4-1973
[22] Inserted by s 4, F Act, 1964, w e f 1-4-1964
[23] Inserted by s 3, F Act, 1972, w e f 1-4-1972
[24] Inserted by cl 3 and Sch, Taxation Laws (Extension to Union Territories) Regulation, 1963, w e f 1-4-1963

and Kashmir [25][and the Union territories specified in sub-clause (*iii*) of this clause]),

[1][(*i-a*) a corporation established by or under a Central, State or Provincial Act,

(*i-b*) any institution, association or body which is declared by the Board to be a company under clause (*17*),]

(*ii*) in the case of the State of Jammu and Kashmir, a company formed and registered under any law for the time being in force in that State,

[25][(*iii*) in the case of any of the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry, a company formed and registered under any law for the time being in force in that Union territory]

Provided that the [2][registered or, as the case may be, principal office of the company, corporation, institution, association or body] in all cases is in India,

(*27*) "Inspecting Assistant Commissioner" means a person appointed to be an Inspecting Assistant Commissioner of Income-tax under sub-section (1) of section 117,

(*28*) "Inspector of Income-tax" means a person appointed to be an Inspector of Income-tax under sub-section (2) of section 117,

(*29*) "legal representative" has the meaning assigned to it in clause (*11*) of section 2 of the Code of Civil Procedure, 1908 (V of 1908),

(*30*) "non-resident" means a person who is not a "resident", and for the purposes of sections 92, 93 [3]* and 168, includes a person who is not ordinarily resident within the meaning of sub-section (*6*) of section 6,

(*31*) "person" includes—

(*i*) an individual,

(*ii*) a Hindu undivided family,

(*iii*) a company,

(*iv*) a firm,

(*v*) an association of persons or a body of individuals, whether incorporated or not,

(*vi*) a local authority, and

(*vii*) every artificial juridical person, not falling within any of the preceding sub-clauses,

(*32*) "person who has a substantial interest in the company", in relation to a company, means a person who is the beneficial owner of shares, not being shares entitled to a fixed rate of dividend whether with or without a right to participate in profits, carrying not less than twenty per cent of the voting power,

(*33*) "prescribed" means prescribed by rules made under this Act,

(*34*) "previous year" means the previous year as defined in section 3,

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[25] Inserted by cl 3 and Sch , Taxation Laws (Extension to Union Territories) Regulation, 1963, w e f 1-4-1963

[1] Inserted by s 3, F (No 2) Act, 1971, w e f 1-4-1971

[2] Substituted for "registered office of the company" by s 3, F (No 2) Act, 1971, w e f 1-4-1971

[3] "113" omitted by s 4, F Act, 1965, w e f 1-4-1965

(35) "principal officer", used with reference to a local authority or a company or any other public body or any association of persons or any body of individuals, means—

(a) the secretary, treasurer, manager or agent of the authority, company, association or body, or

(b) any person connected with the management or administration of the local authority, company, association or body upon whom the Income-tax Officer has served a notice of his intention of treating him as the principal officer thereof,

(36) "profession" includes vocation,

(37) "public servant" has the same meaning as in section 21 of the Indian Penal Code (XLV of 1860),

[4][(37A) "rate or rates in force" or "rates in force", in relation to an assessment year or financial year, mean—

(i) for the purposes of calculating income-tax under the first proviso to sub-section (5) of section 132, or computing the income-tax chargeable under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 or deducting income-tax under section 192 from income chargeable under the head "Salaries" [5][or sub-section (9) of section 80E from any payment referred to therein] or [6][computation of the "advance tax" payable under Chapter XVII-C in a case not falling under section 164, the rate or rates of income-tax specified in this behalf in the Finance Act of the relevant year, and for the purposes of computation of the "advance tax" payable under Chapter XVII-C in a case falling under section 164, the rate specified in that section or the rate or rates of income-tax specified in this behalf in the Finance Act of the relevant year, whichever is applicable],

(ii) for the purposes of deduction of tax under sections 193, 194, 194A, [7][194B], [8][194D] and 195, the rate or rates of income-tax specified in this behalf in the Finance Act of the relevant year,]

(38) "recognised provident fund" means a provident fund which has been and continues to be recognised by the Commissioner in accordance with the rules contained in Part A of the Fourth Schedule, and includes a provident fund established under a scheme framed under the Employees' Provident Funds Act, 1952 (XIX of 1952),

(39) "registered firm" means a firm registered under the provisions of clause (a) of sub-section (1) of section 185 or under that provision read with sub-section (7) of section 184,

(40) "regular assessment" means the assessment made under section 143 or section 144,

(41) "relative", in relation to an individual, means the husband, wife, brother or sister or any lineal ascendant or descendant of that individual,

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4 Inserted by s 4, F (No 2) Act, 1967, w e f 1-4-1967
5 Inserted by s 4, F Act, 1968, w e f 1-4-1968
6 Substituted for "computation of the 'advance tax' payable under Chapter XVII-C, the rate or rates of income-tax specified in this behalf in the Finance Act of the relevant year" by s 3, F Act, 1970, w e f 1-4-1971
7 Inserted by s 3, F Act, 1972, w e f 1-4-1972
8 Inserted by s 3, F Act, 1973, w e f 1-4-1973

(*42*) "resident" means a person who is resident in India within the meaning of section 6,

[9][(*42A*) [10]["short-term capital asset" means a capital asset held by an assessee for not more than sixty months immediately preceding the date of its transfer;]

Explanation—(*i*) In determining the period for which any capital asset is held by the assessee—

(*a*) in the case of a share held in a company in liquidation, there shall be excluded the period subsequent to the date on which the company goes into liquidation,

(*b*) in the case of a capital asset which becomes the property of the assessee in the circumstances mentioned in [11][sub-section (1)] of section 49, there shall be included the period for which the asset was held by the previous owner referred to in the said section,

[12][(*c*) in the case of a capital asset being a share or shares in an Indian company, which becomes the property of the assessee in consideration of a transfer referred to in clause (*vii*) of section 47, there shall be included the period for which the share or shares in the amalgamating company were held by the assessee,]

(*ii*) In respect of capital assets other than those mentioned in clause (*i*), the period for which any capital asset is held by the assessee shall be determined subject to any rules which the Board may make in this behalf,]

[13][(*43*) "tax" in relation to the assessment year commencing on the 1st day of April, 1965, and any subsequent assessment year means income-tax chargeable under the provisions of this Act, and in relation to any other assessment year income-tax and super-tax chargeable under the provisions of this Act prior to the aforesaid date,

(*43A*) "tax credit certificate" means a tax credit certificate granted to any person in accordance with the provisions of Chapter XXII-B and any scheme made thereunder,]

[14][(*43B*) "Tax Recovery Commissioner" means a Commissioner or an Assistant Commissioner of Income-tax who may be authorised by the Central Government, by general or special notification in the Official Gazette, to exercise the powers of a Tax Recovery Commissioner,]

[15][(*44*) "Tax Recovery Officer" means—

(*i*) a Collector or an Additional Collector,

(*ii*) any such officer empowered to effect recovery of arrears of land revenue or other public demand under any law relating to land revenue or other public demand for the time being in force in the State as may be authorised by the State Government, by general or special notification in the Official Gazette, to exercise the powers of a Tax Recovery Officer,

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[9] Inserted by s 3, F (No 2) Act, 1962, w e f 1-4-1962
[10] Substituted by s 3, F Act, 1973, w e f 1-4-1974
[11] Substituted for "clauses (*i*) to (*iii*)" by s 4, F (No 2) Act, 1967, w e f 1-4-1967
[12] Inserted, *ibid*, w e f 1-4-1967
[13] Substituted for cl (*43*) by s 4, F Act, 1965, w e f 1-4-1965
[14] Inserted by s 3, F (No 2) Act, 1971, w e f 1-1-1972
[15] Retrospectively substituted by s 4, F Act, 1963

(iii) any Gazetted Officer of the Central or a State Government who may be authorised by the Central Government, by general or special notification in the Official Gazette, to exercise the powers of a Tax Recovery Officer;]

(45) "total income" means the total amount of income referred to in section 5, computed in the manner laid down in this Act,

(46) [16]* * * * *

(47) "transfer", in relation to a capital asset, includes the sale, exchange or relinquishment of the asset or the extinguishment of any rights therein or the compulsory acquisition thereof under any law,

(48) "unregistered firm" means a firm which is not a registered firm.

3. **"Previous year" defined.**—(1) For the purposes of this Act, "previous year" means—

(a) the financial year immediately preceding the assessment year, or

(b) if the accounts of the assessee have been made up to a date within the said financial year, then, at the option of the assessee, the twelve months ending on such date, or

(c) in the case of any person or business or class of persons or business not falling within clause (a) or clause (b), such period as may be determined by the Board or by any authority authorised by the Board in this behalf, or

(d) in the case of a business or profession newly set up in the said financial year, the period beginning with the date of the setting up of the business or profession and—

(i) ending with the said financial year, or

(ii) if the accounts of the assessee have been made up to a date within the said financial year, then, at the option of the assessee, ending on that date, or

(iii) ending with the period, if any, determined under clause (c),

as the case may be; or

(e) in the case of a business or profession newly set up in the twelve months immediately preceding the said financial year—

(i) if the accounts of the assessee have been made up to a date within the said financial year and the period from the date of the setting up of the business or profession to such date does not exceed twelve months, then, at the option of the assessee, such period, or

(ii) if any period has been determined under clause (c), then the period beginning with the date of the setting up of the business or profession and ending with that period,

as the case may be, or

(f) where the assessee is a partner in a firm and the firm has been assessed as such, then, in respect of the assessee's share in the income of the firm, the period determined as the previous year for the assessment of the income of the firm, or

[16] Omitted by s 4, F Act, 1965, w e f 1-4-1965

(*g*) in respect of profits and gains from life insurance business, the year immediately preceding the assessment year for which annual accounts are required to be prepared under the Insurance Act, 1938 (IV of 1938), or under that Act read with section 43 of the Life Insurance Corporation Act, 1956 (XXXI of 1956)

(2) Where an assessee has newly set up a business or profession in the said financial year and his accounts are made up to a date in the assessment year in respect of a period not exceeding twelve months from the date of such setting up, then, notwithstanding anything contained in sub-clause (*iii*) of clause (*d*) of sub-section (1), the assessee shall, in respect of that business or profession, at his option, be deemed to have no previous year for the said assessment year under that clause and such option shall, in relation to the immediately succeeding assessment year, have effect as an option exercised under sub-clause (*i*) of clause (*e*) of sub-section (1).

(3) Subject to the other provisions of this section, an assessee may have different previous years in respect of separate sources of his income

(4) Where in respect of a particular source of income or in respect of a business or profession newly set up, an assessee has once exercised the option under clause (*b*) or sub-clause (*ii*) of clause (*d*) or sub-clause (*i*) of clause (*e*) of sub-section (1) or has once been assessed, then, he shall not, in respect of that source, or, as the case may be, business or profession, be entitled to vary the meaning of the expression "previous year" as then applicable to him, except with the consent of the Income-tax Officer and upon such conditions as the Income-tax Officer may think fit to impose

CHAPTER II

BASIS OF CHARGE

4. Charge of income-tax.—(1) Where any Central Act enacts that income-tax shall be charged for any assessment year at any rate or rates, income-tax at that rate or those rates shall be charged for that year in accordance with, and subject to the provisions of, this Act in respect of the total income of the previous year or previous years, as the case may be, of every person

Provided that where by virtue of any provision of this Act income-tax is to be charged in respect of the income of a period other than the previous year, income-tax shall be charged accordingly

(2) In respect of income chargeable under sub-section (1), income-tax shall be deducted at the source or paid in advance, where it is so deductible or payable under any provision of this Act

5. Scope of total income.—(1) Subject to the provisions of this Act, the total income of any previous year of a person who is a resident includes all income from whatever source derived which—

(*a*) is received or is deemed to be received in India in such year by or on behalf of such person, or

(*b*) accrues or arises or is deemed to accrue or arise to him in India during such year, or

(c) accrues or arises to him outside India during such year.

Provided that, in the case of a person not ordinarily resident in India within the meaning of sub-section (6) of section 6, the income which accrues or arises to him outside India shall not be so included unless it is derived from a business controlled in or a profession set up in India.

(2) Subject to the provisions of this Act, the total income of any previous year of a person who is a non-resident includes all income from whatever source derived which—

(a) is received or is deemed to be received in India in such year by or on behalf of such person, or

(b) accrues or arises or is deemed to accrue or arise to him in India during such year

Explanation 1—Income accruing or arising outside India shall not be deemed to be received in India within the meaning of this section by reason only of the fact that it is taken into account in a balance sheet prepared in India.

Explanation 2—For the removal of doubts, it is hereby declared that income which has been included in the total income of a person on the basis that it has accrued or arisen or is deemed to have accrued or arisen to him shall not again be so included on the basis that it is received or deemed to be received by him in India

6. Residence in India.—For the purposes of this Act—

(1) An individual is said to be resident in India in any previous year, if he—

(a) is in India in that year for a period or periods amounting in all to one hundred and eighty-two days or more; or

(b) maintains or causes to be maintained for him a dwelling place in India for a period or periods amounting in all to one hundred and eighty-two days or more in that year and has been in India for thirty days or more in that year, or

(c) having within the four years preceding that year been in India for a period or periods amounting in all to three hundred and sixty-five days or more, is in India for a period or periods amounting in all to sixty days or more in that year

(2) A Hindu undivided family, firm or other association of persons is said to be resident in India in any previous year in every case except where during that year the control and management of its affairs is situated wholly outside India

(3) A company is said to be resident in India in any previous year, if—

(i) it is an Indian company, or

(ii) during that year, the control and management of its affairs is situated wholly in India

(4) Every other person is said to be resident in India in any previous year in every case, except where during that year the control and management of his affairs is situated wholly outside India

(5) If a person is resident in India in a previous year relevant to an assessment year in respect of any source of income, he shall be deemed to be resident in India in the previous year relevant to the assessment year in respect of each of his other sources of income

(6) A person is said to be "not ordinarily resident" in India in any previous year if such person is—

(a) an individual who has not been resident in India in nine out of the ten previous years preceding that year, or has not during the seven previous years preceding that year been in India for a period of, or periods amounting in all to, seven hundred and thirty days or more, or

(b) a Hindu undivided family whose manager has not been resident in India in nine out of the ten previous years preceding that year, or has not during the seven previous years preceding that year been in India for a period of, or periods amounting in all to, seven hundred and thirty days or more

7. Income deemed to be received.—The following incomes shall be deemed to be received in the previous year —

(i) the annual accretion in the previous year to the balance at the credit of an employee participating in a recognised provident fund, to the extent provided in rule 6 of Part A of the Fourth Schedule,

(ii) the transferred balance in a recognised provident fund, to the extent provided in sub-rule (4) of rule 11 of Part A of the Fourth Schedule

8. Dividend income.—[17][For the purposes of inclusion in the total income of an assessee,—

(a) any dividend] declared by a company or distributed or paid by it within the meaning of sub-clause (a) or sub-clause (b) or sub-clause (c) or sub-clause (d) or sub-clause (e) of clause (22) of section 2 shall be deemed to be the income of the previous year in which it is so declared, distributed or paid, as the case may be,

[18][(b) any interim dividend shall be deemed to be the income of the previous year in which the amount of such dividend is unconditionally made available by the company to the member who is entitled to it]

9. Income deemed to accrue or arise in India.—(1) The following incomes shall be deemed to accrue or arise in India—

(i) all income accruing or arising, whether directly or indirectly, through or R
from any business connection in India, or through or from any property 10
in India, or through or from any asset or source of income in India, or through or from any money lent at interest and brought into India in cash or in kind or through the transfer of a capital asset situate in India,

Explanation —For the purposes of this clause—

(a) in the case of a business of which all the operations are not carried out in India, the income of the business deemed under this clause to accrue or arise in India shall be only such part of the income as is reasonably attributable to the operations carried out in India,

(b) in the case of a non-resident, no income shall be deemed to accrue or arise in India to him through or from operations which are confined to the purchase of goods in India for the purpose of export,

[19]* * * * *

[17] Substituted for "For the purposes of inclusion in the total income of an assessee, any dividend" by s 5, F Act, 1965, w e f 1-4-1965
[18] Inserted, *ibid*, w e f 1-4-1965
[19] The proviso omitted by s 5, F Act, 1964, w e f 1-4-1964

(ii) income which falls under the head "Salaries", if it is earned in India,

(iii) income chargeable under the head "Salaries" payable by the Government to a citizen of India for service outside India,

(iv) a dividend paid by an Indian company outside India

(2) Notwithstanding anything contained in sub-section (1), any pension payable outside India to a person residing permanently outside India shall not be deemed to accrue or arise in India, if the pension is payable to a person referred to in article 314 of the Constitution or to a person who, having been appointed before the 15th day of August, 1947, to be a Judge of the Federal Court or of a High Court within the meaning of the Government of India Act, 1935, continues to serve on or after the commencement of the Constitution as a Judge in India

CHAPTER III

INCOMES WHICH DO NOT FORM PART OF TOTAL INCOME

10. Incomes not included in total income.—In computing the total income of a previous year of any person, any income falling within any of the following clauses shall not be included—

(*1*) agricultural income,

(*2*) [20][subject to the provisions of sub-section (2) of section 64,] any sum received by an individual as a member of a Hindu undivided family, where such sum has been paid out of the income of the family, or, in the case of any impartible estate, where such sum has been paid out of the income of the estate belonging to the family,

[21][(*3*) any receipts which are of a casual and non-recurring nature, not being winnings from lotteries, to the extent such receipts do not exceed one thousand rupees in the aggregate

Provided that this clause shall not apply to—

(i) capital gains chargeable under the provisions of section 45, or

(ii) receipts arising from business or the exercise of a profession or occupation, or

(iii) receipts by way of addition to the remuneration of an employee,]

(*4*) in the case of a non-resident, [22][any income from interest on such securities as the Central Government may, by notification in the Official Gazette, specify in this behalf, or] any income from interest on, or from premium on the redemption of, any bonds issued by the Central Government under a loan agreement between the Central Government and the International

[20] Inserted by s 3, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971
[21] Substituted by s 4, F Act, 1972, w e f 1-4-1972
"*Certain casual and non-recurring receipts not to be included in the total income for the assessment year 1972-73*—Notwithstanding the amendments made by this Act to the Income-tax Act, in computing, in the case of any person, the total income of a previous year relevant to the assessment year commencing on the 1st day of April, 1972, any income falling within clause (*3*) of section 10 of the Income-tax Act as it stood immediately before the 1st day of April, 1972, shall not be included"
—*S 59, F Act, 1972*
[22] Inserted by s 6, F Act, 1964, w e f 1-4-1964

Bank for Reconstruction and Development or under a loan agreement between the Central Government and the Development Loan Fund of the United States of America or by any industrial undertaking or financial corporation in India under a loan agreement with the said Bank or Fund, as the case may be, which is guaranteed by the Central Government,

[23][(*4A*) in the case of a non-resident, any income from interest on moneys standing to his credit in a [24][Non-resident (External) Account] in any bank in India in accordance with the Foreign Exchange Regulation Act, 1947 (VII of 1947), and any rules made thereunder,]

[25][(*5*) subject to such conditions as the Central Government may prescribe, in the case of an individual being a citizen of India,—

(*i*) in relation to any assessment year not being an assessment year commencing after the 1st day of April, 1970, the value of any travel concession or assistance received by or due to such individual,—

(*a*) from his employer for himself, his spouse and children, in connection with his proceeding on leave to his home-district in India,

(*b*) from his employer or former employer for himself, his spouse and children, in connection with his proceeding to his home-district in India after retirement from service or after the termination of his service,

(*ii*) in relation to any other assessment year the value of any travel concession or assistance received by or due to such individual,—

(*a*) from his employer for [1][himself and his family], in connection with his proceeding on leave to any place in India,

(*b*) from his employer or former employer for [1][himself and his family], in connection with his proceeding to any place in India after retirement from service or after the termination of his service

Provided that the amount exempt under item (*a*) or item (*b*) of this sub-clause [2][shall not, except in such cases and under such circumstances as may be prescribed having regard to the travel concession or assistance granted to the employees of the Central Government, exceed] the value of the travel concession or assistance which would have been received by or due to the individual in connection with his proceeding to his home-district in India on leave or, as the case may be, after retirement from service or after the termination of his service,]

[3][*Explanation* —For the purposes of this sub-clause, "family", in relation to an individual, means—

(*i*) the spouse and children of the individual, and

(*ii*) the parents, brothers and sisters of the individual or any of them, wholly or mainly dependent on the individual,]

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23 Inserted by s 6, F Act, 1965, w e f 1-4-1965
24 Substituted for "non-resident account" by s 30 and 3rd Sch , F Act, 1968, w e f 1-4-1969
25 Retrospectively substituted by s 3, Taxation Laws (Amendment) Act, 1970
1 Substituted for "himself, his spouse and children" by s 3, F Act, 1975, w e f 1-4-1975
2 Substituted for "shall in no case exceed", *ibid*, w e f 1-4-1975
3 Inserted, *ibid*, w e f 1-4-1975

(6) in the case of an individual who is not a citizen of India,—

[4][(i) subject to such conditions as the Central Government may prescribe, passage moneys or the value of any free or concessional passage received by or due to such individual—

(a) from his employer for himself, his spouse and children, in connection with his proceeding on home leave out of India,

(b) from his employer or former employer for himself, his spouse and children, in connection with his proceeding to his home country out of India after retirement from service in India or after the termination of such service,]

(ii) the remuneration received by him as ambassador, high commissioner, envoy, minister, *chargé d'affaires*, commissioner, counsellor or the secretary, adviser or attache of an embassy, high commission, legation or commission of a foreign State, for service in such capacity,

(iii) the remuneration received by him as a *consul de carrière*, whether called a consul-general, consul, vice-consul, consular agent, pro-consul or by any other name, of a foreign State for service in such capacity,

(iv) the remuneration received by him as a trade commissioner or other official representative in India of the Government of a foreign State (not holding office as such in an honorary capacity), if the remuneration of the corresponding officials, if any, of the Government resident for similar purposes in the country concerned enjoys a similar exemption in that country,

(v) the remuneration received by him as a member of the staff of any of the officials referred to in clause (ii), clause (iii) or clause (iv), if the member—

(a) is a subject of the country represented,

(b) is not engaged in any business or profession or employment in India otherwise than as a member of such staff,

and further, where the individual is a member of the staff of any official referred to in clause (iv), if the country represented has made corresponding provisions for similar exemptions in the case of members of the staff of the corresponding officials of the Government,

(vi) the remuneration received by him as an employee of a foreign enterprise for services rendered by him during his stay in India, provided the following conditions are fulfilled—

(a) the foreign enterprise is not engaged in any trade or business in India,

(b) his stay in India does not exceed in the aggregate a period of ninety days in such previous year, and

(c) such remuneration is not liable to be deducted from the income of the employer chargeable under this Act,

[5][(vi-a) the remuneration received by him as an employee of, or a consultant to, an institution or association or a body established or formed outside India solely for philanthropic purposes, for services rendered

[4] Retrospectively substituted by s 3, Taxation Laws (Amendment) Act, 1970
[5] Inserted by s 3, Taxation Laws (Amendment) Act, 1975, w e f 1-10-1975

by him in India in connection with such purposes; provided that such institution or association or body and the purposes for which his services are rendered in India are approved by the Central Government,]

(vii) the remuneration due to or received by him chargeable under the head "Salaries" for services rendered as a technician in the employment [6][(commencing from a date before the 1st day of April, 1971)] of the Government or of a local authority or of any corporation set up under any special law or in any business carried on in India, if he was not resident in any of the four financial years immediately preceding the financial year in which he arrived in India to the extent mentioned below—

(a) where his contract of service [7][is approved by the Central Government before the commencement of his service or within one year of such commencement]—

(i) in the case of a technician who has special knowledge and experience in industrial or business management techniques, such remuneration due to or received by him during the period of six months commencing from the date of his arrival in India;

(ii) in the case of any other technician, such remuneration due to or received by him during the thirty-six months commencing from the date of his arrival in India, and where any such person continues [8][with the approval of the Central Government obtained before the 1st day of October of the relevant assessment year] to remain in employment in India after the expiry of the thirty-six months aforesaid and the tax on his income chargeable under the head "Salaries" is paid by the employer to the Central Government (which tax in the case of an employer being a company may be paid notwithstanding anything contained in section 200 of the Companies Act, 1956 (I of 1956)), the tax so paid by the employer for a period not exceeding [9][sixty] months following the expiry of the thirty-six months aforesaid,

(b) in any other case, not being the case of a technician who has special knowledge and experience in industrial or business management techniques, such remuneration due to or received by him for the period of three hundred and sixty-five days in all commencing from the date of his arrival in India,

Explanation—[10][For the purposes of this sub-clause,] "technician" means a person having specialised knowledge and experience in—

(i) constructional or manufacturing operations, or in mining or in the generation or distribution of electricity or any other form of power, or

(ii) industrial or business management techniques,

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[6] Inserted by s 3, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

[7] Substituted for "was approved by the Central Government before the commencement of his service" by s. 6, F Act, 1964, w e f 1-4-1964

[8] Inserted by s 6, F Act, 1965, w e f 1-4-1965

[9] Substituted for "twenty-four", *ibid*, w e f 1-4-1965

[10] Inserted by s 3, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

who is employed in India in a capacity in which such specialised knowledge and experience are actually utilised,

R 16A [11][(vii-a) where such individual renders services as a technician in the employment (commencing from a date after the 31st day of March, 1971) of the Government or of a local authority or of any corporation set up under any special law or of any such institution or body established in India for carrying on scientific research as is approved for the purposes of this sub-clause by the prescribed authority or in any business carried on in India and the following conditions are fulfilled, namely, that—

(1) the individual was not resident in India in any of the four financial years immediately preceding the financial year in which he arrived in India, and

(2) the contract of his service in India is approved by the Central Government, the application for such approval having been made to that Government before the commencement of such service or within six months of such commencement,

the remuneration for such services due to or received by him, which is chargeable under the head "Salaries", to the extent mentioned below, namely:—

(A) such remuneration due to or received by him during the period of twenty-four months commencing from the date of his arrival in India, in so far as such remuneration does not exceed an amount calculated at the rate of four thousand rupees per month, and where the tax on the excess, if any, of such remuneration for the period aforesaid over the amount so calculated is paid to the Central Government by the employer (which tax, in the case of an employer, being a company, may be paid notwithstanding anything contained in section 200 of the Companies Act, 1956 (I of 1956)), also the tax so paid by the employer, and

(B) where he continues, with the approval of the Central Government obtained before the 1st day of October of the relevant assessment year, to remain in employment in India after the expiry of the period of twenty-four months aforesaid and the tax on his income chargeable under the head "Salaries" is paid to the Central Government by the employer (which tax, in the case of an employer, being a company, may be paid notwithstanding anything contained in section 200 of the Companies Act, 1956 (I of 1956)), the tax so paid by the employer for a period not exceeding twenty-four months next following the expiry of the first-mentioned twenty-four months.

[12][Provided that the Central Government may, if it considers it necessary or expedient in the public interest so to do, waive the condition specified in item (1) of this sub-clause in the case of any individual who is employed in India for designing, erection or commissioning of machinery or plant or supervising activities connected with such designing, erection or commissioning;]

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[11] Inserted by s 3, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

[12] Inserted by s 2, Direct Taxes (Amendment) Act, 1974, w e f 1-4-1973

Explanation.—For the purposes of this sub-clause, "technician" means a person having specialised knowledge and experience in—

(i) constructional or manufacturing operations, or in mining or in the generation of electricity or any other form of power, or

(ii) agriculture, animal husbandry, dairy farming, deep sea fishing or ship building,

who is employed in India in a capacity in which such specialised knowledge and experience are actually utilised,]

(*viii*) any income chargeable under the head "Salaries" received by or due to any such individual being a non-resident as remuneration for services rendered in connection with his employment on a foreign ship where his total stay in India does not exceed in the aggregate a period of ninety days in the previous year,

[13][(*ix*) any income chargeable under the head "Salaries" received by or due to him during the thirty-six months commencing from the date of his arrival in India for service rendered as a professor or other teacher in a University or other educational institution, and where any such individual continues to remain in employment in India after the expiry of the thirty-six months aforesaid and the tax on his income chargeable under the head "Salaries" is paid by the University or other educational institution concerned to the Central Government, the tax so paid for a period not exceeding twenty-four months following the expiry of the thirty-six months aforesaid, provided in either case the following conditions are fulfilled, namely —

(i) such individual was not resident in any of the four financial years immediately preceding the financial year in which he arrived in India, and

(ii) his contract of service is approved by the Central Government—

(*a*) on or before the 1st day of October, 1964, in the case of a professor or other teacher whose service commenced before the 1st day of April, 1964;

(*b*) before the commencement of his service or within one year of such commencement, in any other case;

(*x*) any sum due to or received by him, during the twenty-four months commencing from the date of his arrival in India, for undertaking any research work in India, provided the following conditions are fulfilled, namely —

(*a*) the research work is undertaken in connection with a research scheme approved in this behalf by the Central Government on or before the 1st day of October of the relevant assessment year, and

(*b*) such sum is payable or paid directly or indirectly by the Government of a foreign State or any institution or association or other body established outside India,]

(*7*) any allowances or perquisites paid or allowed as such outside India by the Government to a citizen of India for rendering service outside India,

(*8*) in the case of an individual who is assigned to duties in India in connection with any co-operative technical assistance programmes and projects in

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[13] Inserted by s 6, F Act, 1964, w e f 1-4-1964

accordance with an agreement entered into by the Central Government and the Government of a foreign State (the terms whereof provide for the exemption given by this clause)—

(*a*) the remuneration received by him directly or indirectly from the Government of that foreign State for such duties, and

(*b*) any other income of such individual which accrues or arises outside India, and is not deemed to accrue or arise in India, in respect of which such individual is required to pay any income or social security tax to the Government of that foreign State,

(*9*) the income of any member of the family of any such individual as is referred to in clause (*8*) accompanying him to India, which accrues or arises outside India, and is not deemed to accrue or arise in India, in respect of which such member is required to pay any income or social security tax to the Government of that foreign State,

[14][(*10*) (*i*) any death-*cum*-retirement gratuity received under the revised Pension Rules of the Central Government or, as the case may be, the Central Civil Services (Pension) Rules, 1972, or under any similar scheme applicable to the members of the civil services of the Union or holders of posts connected with defence or of civil posts under the Union (such members or holders being persons not governed by the said Rules) or to the members of the all-India services or to the members of the civil services of a State or holders of civil posts under a State or to the employees of a local authority or any payment of retiring gratuity received under the Pension Code or Regulations applicable to the members of the defence services,

(*ii*) any gratuity received under the Payment of Gratuity Act, 1972 (XXXIX of 1972), to the extent it does not exceed an amount calculated in accordance with the provisions of sub-sections (2) and (3) of section 4 of that Act,

(*iii*) any other gratuity received by an employee on his retirement or on his becoming incapacitated prior to such retirement or on termination of his employment, or any gratuity received by his widow, children or dependants on his death, to the extent it does not, in either case, exceed one-half month's salary for each year of completed service, calculated on the basis of the average salary for the three years immediately preceding the year in which the gratuity is paid, subject to a maximum of thirty thousand rupees or twenty months' salary so calculated, whichever is less

Provided that where any gratuities referred to in this clause are received by an employee from more than one employer in the same previous year, the aggregate amount exempt from income-tax under this clause shall not exceed thirty thousand rupees·

Provided further that where any such gratuity or gratuities was or were received in any one or more earlier previous years also and the whole or any part of the amount of such gratuity or gratuities was not included in the total income of the assessee of such previous year or years, the amount exempt from income-tax under this clause shall not exceed thirty thousand rupees as reduced by the amount or, as the case may be, the aggregate amount not included in the total income of any such previous year or years,

[14] Substituted by s 3, F Act, 1974, w e f 1-4-1975

Explanation —In this clause, "salary" shall have the meaning assigned to it in clause (*h*) of rule 2 of Part A of the Fourth Schedule,]

[15][(*10A*) (*i*) any payment in commutation of pension received under the Civil Pensions (Commutation) Rules of the Central Government or under any similar scheme applicable [16][to the members of the civil services of the Union or holders of posts connected with defence or of civil posts under the Union (such members or holders being persons not governed by the said Rules) or to the members of the all-India services or to the members of the defence services or to the members of the civil services of a State or holders of civil posts under a State or to the employees of a local authority] or a corporation established by a Central, State or Provincial Act,

(*ii*) any payment in commutation of pension received under any scheme of any other employer, to the extent it does not exceed—

(*a*) in a case where the employee receives any gratuity, the commuted value of one-third of the pension which he is normally entitled to receive, and

(*b*) in any other case, the commuted value of one-half of such pension,

such commuted value being determined having regard to the age of the recipient, the state of his health, the rate of interest and officially recognised tables of mortality

Provided that the maximum limit of payment specified in sub-clause (*ii*)(*a*) or sub-clause (*ii*)(*b*) shall not apply in respect of any such payment made before the 19th day of August, 1965,]

[17][(*10B*) any compensation received by a workman under the Industrial Disputes Act, 1947 (XIV of 1947), or under any other Act or rules, orders or notifications issued thereunder or under any standing orders or under any award, contract of service or otherwise, at the time of his retrenchment, to the extent such compensation does not exceed—

(*i*) an amount calculated in accordance with the provisions of clause (*b*) of section 25F of the Industrial Disputes Act, 1947 (XIV of 1947), or

(*ii*) twenty thousand rupees,

whichever is less,

Explanation —For the purposes of this clause—

(*a*) compensation received by a workman at the time of the closing down of the undertaking in which he is employed shall be deemed to be compensation received at the time of his retrenchment,

(*b*) compensation received by a workman, at the time of the transfer (whether by agreement or by operation of law) of the ownership or management of the undertaking in which he is employed from the employer in relation to that undertaking to a new employer, shall be deemed to be compensation received at the time of his retrenchment if—

(*i*) the service of the workman has been interrupted by such transfer, or

[15] Retrospectively inserted by s 3, F (No 2) Act, 1965
[16] Retrospectively substituted for "to the members of the defence services or to the employees of a State Government, a local authority" by s 3, F Act, 1974
[17] Inserted by s 3, F Act, 1975, w e f 1-4-1976

(ii) the terms and conditions of service applicable to the workman after such transfer are in any way less favourable to the workman than those applicable to him immediately before the transfer, or

(iii) the new employer is, under the terms of such transfer or otherwise, legally not liable to pay to the workman, in the event of his retrenchment, compensation on the basis that his service has been continuous and has not been interrupted by the transfer,

(c) the expressions "employer" and "workman" shall have the same meanings as in the Industrial Disputes Act, 1947 (XIV of 1947);]

(11) any payment from a provident fund to which the Provident Funds Act, 1925 (XIX of 1925), applies [18][or from any other provident fund set up by the Central Government and notified by it in this behalf in the Official Gazette],

(12) the accumulated balance due and becoming payable to an employee participating in a recognised provident fund, to the extent provided in rule 8 of Part A of the Fourth Schedule,

[19][(13) any payment from an approved superannuation fund made—

(i) on the death of a beneficiary, or

(ii) to an employee in lieu of or in commutation of an annuity on his retirement at or after a specified age or on his becoming incapacitated prior to such retirement, or

(iii) by way of refund of contributions on the death of a beneficiary, or

(iv) by way of refund of contributions to an employee on his leaving the service in connection with which the fund is established otherwise than by retirement at or after a specified age or on his becoming incapacitated prior to such retirement, to the extent to which such payment does not exceed the contributions made prior to the commencement of this Act and any interest thereon,]

R 2A [20][(13A) any special allowance specifically granted to an assessee by his employer to meet expenditure actually incurred on payment of rent (by whatever name called) in respect of residential accommodation occupied by the assessee, to such extent (not exceeding [21][four] hundred rupees per month) as may be prescribed having regard to the area or place in which such accommodation is situate and other relevant considerations,]

(14) any special allowance or benefit, not being in the nature of an entertainment allowance or other perquisite within the meaning of clause (2) of section 17, specifically granted to meet expenses wholly, necessarily and exclusively incurred in the performance of the duties of an office or employment of profit, to the extent to which such expenses are actually incurred for that purpose,

[22][*Explanation* —For the removal of doubts, it is hereby declared that any allowance granted to the assessee to meet his personal expenses at the place where the duties of his office or employment of profit are

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18 Inserted by s 30 and 3rd Sch , F Act, 1968, w e f 1-4-1969
19 Retrospectively substituted by s 6, F Act, 1965
20 Inserted by s 3, Direct Taxes (Amendment) Act, 1964, w e f 6-10-1964
21 Substituted for "three" by s 3, F Act, 1975, w e f 1-4-1975
22 Retrospectively inserted, *ibid*

ordinarily performed by him or at the place where he ordinarily resides shall not be regarded, for the purposes of this clause, as a special allowance granted to meet expenses wholly, necessarily and exclusively incurred in the performance of such duties,]

(*15*) (*i*) monthly payment on the 15-Year Annuity Certificates issued by or under the authority of the Central Government or such other annuity certificates issued by or under the authority of that Government as that Government may, by notification in the Official Gazette, specify in this behalf, to the extent to which the amounts of the certificates do not exceed in each case the maximum amount which is permitted to be invested therein,

[23][(*i-a*) annual payment on National Defence Gold Bonds, 1980,]

(*ii*) interest on Treasury Savings Deposit Certificates, Post Office Cash Certificates, Post Office National Savings Certificates, National Plan Certificates, Twelve Year National Plan Savings Certificates and such other certificates issued by the Central Government as that Government may, by notification in the Official Gazette, specify in this behalf, [24][interest on deposits in Post Office Savings Banks and bonus in respect of deposits under the Post Office Savings Bank (Cumulative Time Deposits) Rules, 1959,] to the extent to which the amounts of such certificates or deposits do not exceed in each case the maximum amount which is permitted to be invested or deposited therein,

[25][(*ii-a*) interest on fixed deposits under any scheme framed by the Central Government and notified by it in this behalf in the Official Gazette, to the extent to which the amounts of such deposits do not exceed, in each case, the maximum amount which is permitted to be deposited therein,]

(*iii*) interest on securities held by the Issue Department of the Central Bank of Ceylon constituted under the Ceylon Monetary Law Act, 1949,

(*iv*) interest payable—

(*a*) by Government or a local authority on moneys borrowed by it from sources outside India,

(*b*) by an industrial undertaking in India on moneys borrowed by it under a loan agreement entered into with any such financial institution in a foreign country as may be approved in this behalf by the Central Government by general or special order,

(*c*) by an industrial undertaking in India on any moneys borrowed or debt incurred by it in a foreign country in respect of the purchase outside India of raw materials or capital plant and machinery, [1][to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan or debt and its repayment],

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[23] Inserted by s 3, Taxation Laws (Amendment and Miscellaneous Provisions) Act, 1965, w e f 4-12-1965

[24] Substituted for "and interest on deposits in Post Office Savings Banks" by s 3, F (No 2) Act, 1965, w e f 11-9-1965

[25] Inserted by s 30 and 3rd Sch , F Act, 1968, w e f 1-4-1969

[1] Substituted for "in any case where the loan or debt is approved by the Central Government, having regard to its terms generally and in particular to the terms of its repayment" by s 6, F Act, 1964, w e f 1-4-1964

[2][(*d*) by the Industrial Finance Corporation of India established by the Industrial Finance Corporation Act, 1948 (XV of 1948), or the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (XVIII of 1964), or the Industrial Credit and Investment Corporation of India (a company formed and registered under the Indian Companies Act, 1913 (VII of 1913)), on any moneys borrowed by it from sources outside India, to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan and its repayment,

(*e*) by any other financial institution established in India or a banking company to which the Banking Regulation Act, 1949 (X of 1949), applies (including any bank or banking institution referred to in section 51 of that Act), on any moneys borrowed by it from sources outside India under a loan agreement approved by the Central Government where the moneys are borrowed either for the purpose of advancing loans to industrial undertakings in India for purchase outside India of raw materials or capital plant and machinery or for the purpose of importing any goods which the Central Government may consider necessary to import in the public interest, to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan and its repayment,]

(*16*) scholarships granted to meet the cost of education,

(*17*) any daily allowance received by any person by reason of his membership of Parliament or of any State Legislature or of any Committee thereof,

[3][(*17A*) any payment made, whether in cash or in kind, in pursuance of awards for literary, scientific and artistic work or attainment, or for proficiency in sports and games, instituted by the Central Government or by any State Government or approved by the Central Government in this behalf

Provided that the approval granted by the Central Government shall have effect for such assessment year or years (including an assessment year or years commencing before the date on which such approval is granted) as may be specified in the order granting the approval,

(*17B*) any payment made, whether in cash or in kind, as a reward by the Central Government or any State Government for such purposes as may be approved by the Central Government in this behalf in the public interest,]

(*18*) any payment made, whether in cash or in kind, by the Central Government or any State Government in pursuance of gallantry awards instituted or approved by the Central Government,

[4][(*18A*) any *ex gratia* payments made by the Central Government consequent on the abolition of privy purse,]

(*19*) [5]* * * * *

[2] Inserted by s 2, Direct Taxes (Amendment) Act, 1974, w e f 1-4-1973
[3] Inserted, *ibid*, w e f 1-4-1973
[4] Inserted by s 7, Rulers of Indian States (Abolition of Privileges) Act, 1972, w e f 9-9-1972
[5] Omitted, *ibid*, w e f 2-4-1973

[6][(*19A*) the annual value of any one palace in the occupation of a Ruler, being a palace, the annual value whereof was exempt from income-tax before the commencement of the Constitution (Twenty-sixth Amendment) Act, 1971, by virtue of the provisions of the Merged States (Taxation Concessions) Order, 1949, or the Part B States (Taxation Concessions) Order, 1950, or, as the case may be, the Jammu and Kashmir (Taxation Concessions) Order, 1958

Provided that for the assessment year commencing on the 1st day of April, 1972, the annual value of every such palace in the occupation of such Ruler during the relevant previous year shall be exempt from income-tax,]

(*20*) the income of a local authority which is chargeable under the head "Interest on securities", "Income from house property", "Capital gains" or "Income from other sources" or from a trade or business carried on by it which accrues or arises from the supply of a commodity or service [7][(not being water or electricity) within its own jurisdictional area or from the supply of water or electricity within or outside its own jurisdictional area],

[8][(*20A*) any income of an authority constituted in India by or under any law enacted either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both,]

(*21*) any income of a scientific research association for the time being approved for the purpose of clause (*ii*) of sub-section (1) of section 35 which is applied solely to the purposes of that association,

(*22*) any income of a University or other educational institution, existing solely for educational purposes and not for purposes of profit,

[9][(*22A*) any income of a hospital or other institution for the reception and treatment of persons suffering from illness or mental defectiveness or for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation, existing solely for philanthropic purposes and not for purposes of profit,]

(*23*) any income of an association or institution established in India having as its object the control, supervision, regulation or encouragement in India of the games of cricket, hockey, football, tennis or such other games or sports as the Central Government may specify in this behalf from time to time by notification in the Official Gazette

Provided that—

(*i*) the association or institution applies its income, or accumulates it for application, solely to the objects for which it is established,

(*ii*) no part of the income of the association or institution is distributed in any manner to its members except as grants to any association or institution affiliated to it, and

(*iii*) the association or institution is, for the time being, approved for the purpose of this clause by the Central Government by general or special order,

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[6] Inserted by s 7, Rulers of Indian States (Abolition of Privileges) Act, 1972, w e f 28-12-1971
[7] Substituted for "within its own jurisdictional area" by s 4, F (No 2) Act, 1971, w e f 1-4-1972
[8] Retrospectively inserted by s 4, F Act, 1970
[9] Inserted, *ibid*, w e f 1-4-1970

[10][(23A) any income (other than income chargeable under the head "Interest on securities" or "Income from house property" or any income received for rendering any specific services or income by way of interest or dividends derived from its investments) of an association or institution established in India having as its object the control, supervision, regulation or encouragement of the profession of law, medicine, accountancy, engineering or architecture or such other profession as the Central Government may specify in this behalf, from time to time, by notification in the Official Gazette

Provided that—

(i) the association or institution applies its income, or accumulates it for application, solely to the objects for which it is established, and

(ii) the association or institution is for the time being approved for the purpose of this clause by the Central Government by general or special order,]

[11][(23B) any income of an institution constituted as a public charitable trust or registered under the Societies Registration Act, 1860 (XXI of 1860), or under any law corresponding to that Act in force in any part of India, and existing solely for the development of khadi or village industries or both, and not for purposes of profit, to the extent such income is attributable to the business of production, sale, or marketing, of khadi or products of village industries

Provided that—

(i) the institution applies its income, or accumulates it for application, solely for the development of khadi or village industries or both; and

(ii) the institution is, for the time being, approved for the purpose of this clause by the Khadi and Village Industries Commission

Provided further that the Commission shall not, at any one time, grant such approval for more than three assessment years beginning with the assessment year next following the financial year in which it is granted,

Explanation —For the purposes of this clause,—

(i) "Khadi and Village Industries Commission" means the Khadi and Village Industries Commission established under the Khadi and Village Industries Commission Act, 1956 (LXI of 1956),

(ii) "khadi" and "village industries" have the meanings respectively assigned to them in that Act,]

[12][(23C) any income received by any person on behalf of—

(i) the Prime Minister's National Relief Fund, or

(ii) the Prime Minister's Fund (Promotion of Folk Art), or

(iii) the Prime Minister's Aid to Students Fund, or

(iv) any other fund or institution established for charitable purposes which may be notified by the Central Government in the Official Gazette, having regard to the objects of the fund or institution and

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10 Retrospectively inserted by s 3, F (No 2) Act, 1965

11 Inserted by s 3, F Act, 1974, w e f 1-6-1974

12 Inserted by s 3, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976

its importance throughout India or throughout any State or States, or

(*v*) any trust (including any other legal obligation) or institution, being a trust or institution wholly for public religious purposes or wholly for public religious and charitable purposes, which may be notified by the Central Government in the Official Gazette, having regard to the manner in which the affairs of the trust or institution are administered and supervised for ensuring that the income accruing thereto is properly applied for the purposes thereof

Provided that any notification issued by the Central Government under sub-clause (*iv*) or sub-clause (*v*) shall have effect for such assessment year or years (including an assessment year or years commencing before the date on which such notification is issued) as may be specified in the notification,]

(*24*) any income chargeable under the heads "Interest on securities", "Income from house property" and "Income from other sources" of a registered union within the meaning of the Indian Trade Unions Act, 1926 (XVI of 1926), formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen,

(*25*) (*i*) interest on securities which are held by, or are the property of, any provident fund to which the Provident Funds Act, 1925 (XIX of 1925), applies, and any capital gains of the fund arising from the sale, exchange or transfer of such securities,

(*ii*) any income received by the trustees on behalf of a recognised provident fund,

(*iii*) any income received by the trustees on behalf of an approved superannuation fund,

[13][(*iv*) any income received by the trustees on behalf of an approved gratuity fund,]

[14][(*26*) in the case of a member of a Scheduled Tribe as defined in clause (*25*) of article 366 of the Constitution, residing in any area specified in Part I or Part II of the Table appended to paragraph 20 of the Sixth Schedule to the Constitution or in the States of Nagaland, Manipur and Tripura or in the Union territories of Arunachal Pradesh and Mizoram or in the areas covered by notification No TAD/R/35/50/109, dated the 23rd February, 1951, issued by the Governor of Assam under the proviso to sub-paragraph (3) of the said paragraph 20 (as it stood immediately before the commencement of the North-Eastern Areas (Reorganisation) Act, 1971 (XVIII of 1971)) any income which accrues or arises to him,—

(*a*) from any source in the areas, States or Union territories aforesaid, or

(*b*) by way of dividend or interest on securities,]

[15][(*26A*) any income accruing or arising to any person [16]* * from any source in the district of Ladakh or outside India in any previous year relevant

[13] Inserted by s 4, F Act, 1972, w e f 1-4-1973
[14] Substituted by cl 3 and Sch , North-Eastern Areas (Reorganisation) (Adaptation of Laws on Union Subjects) Order, 1974, w e f 21-1-1972
[15] Retrospectively inserted by s 3, F (No 2) Act, 1965
[16] "(Not being an individual who is in the service of Government)" retrospectively omitted by s 4, F (No 2) Act, 1971

to any assessment year commencing before the 1st day of April, [17][1975], where such person is resident in the said district in that previous year

Provided that this clause shall not apply in the case of any such person unless he was resident in that district in the previous year relevant to the assessment year commencing on the 1st day of April, 1962,

Explanation—For the purposes of this clause, a person shall be deemed to be resident in the district of Ladakh if he fulfils the requirements of sub-section (1) or sub-section (2) or sub-section (3) or sub-section (4) of section 6, as the case may be, subject to the modifications that—

(*i*) references in those sub-sections to India shall be construed as references to the said district, and

(*ii*) in clause (*i*) of sub-section (3), reference to Indian company shall be construed as reference to a company formed and registered under any law for the time being in force in the State of Jammu and Kashmir and having its registered office in that district in that year,]

[18](*27*) * * * * *

[19][(*28*) any amount adjusted or paid in respect of a tax credit certificate under the provisions of Chapter XXII-B and any scheme made thereunder,]

[20][(*29*) in the case of an authority constituted under any law for the time being in force for the marketing of commodities, any income derived from the letting of godowns or warehouses for storage, processing or facilitating the marketing of commodities,]

R 8 [21][(*30*) in the case of an assessee who carries on the business of growing and manufacturing tea in India, the amount of any subsidy received from or through the Tea Board under any such scheme for replantation or replacement of tea bushes as the Central Government may, by notification in the Official Gazette, specify

Provided that the assessee furnishes to the Income-tax Officer, along with his return of income for the assessment year concerned or within such further time as the Income-tax Officer may allow, a certificate from the Tea Board as to the amount of such subsidy paid to the assessee during the previous year,

Explanation—In this clause, "Tea Board" means the Tea Board established under section 4 of the Tea Act, 1953 (XXIX of 1953)]

11. Income from property held for charitable or religious purposes.—(1) Subject to the provisions of sections 60 to 63, the following income shall not be included in the total income of the previous year of the person in receipt of the income—

[22][(*a*) income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied to such purposes in India, and, where any such income is accumulated or set apart for application to such purposes in India, to the extent to which the income so accumulated or set apart is not in excess of twenty-five per cent of the income from such property,

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17 Substituted for "1970" by s 4, F (No 2) Act, 1971, w e f 1-4-1970
18 Inserted by s 6, F Act, 1964, w e f 1-4-1964, and omitted by s 3, F Act, 1975, w e f 1-4-1976
19 Inserted by s 6, F Act, 1965, w e f 1-4-1965, and substituted by s 3, F (No 2) Act, 1965, w e f 11-9-1965
20 Inserted by s 33 and 3rd Sch , F (No 2) Act, 1967, w e f 1-4-1968
21 Inserted by s 3, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1969
22 Substituted by s 4, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976

(*b*) income derived from property held under trust in part only for such purposes, the trust having been created before the commencement of this Act, to the extent to which such income is applied to such purposes in India, and, where any such income is finally set apart for application to such purposes in India, to the extent to which the income so set apart is not in excess of twenty-five per cent. of the income from such property;]

(*c*) income [23][derived] from property held under trust—

(*i*) created on or after the 1st day of April, 1952, for a charitable purpose which tends to promote international welfare in which India is interested, to the extent to which such income is applied to such purposes outside India, and

(*ii*) for charitable or religious purposes, created before the 1st day of April, 1952, to the extent to which such income is applied to such purposes outside India

Provided that the Board, by general or special order, has directed in either case that it shall not be included in the total income of the person in receipt of such income

[24][*Explanation* —For the purposes of clauses (*a*) and (*b*),—

(*1*) in computing the twenty-five per cent of the income which may be accumulated or set apart, any such voluntary contributions as are referred to in section 12 shall be deemed to be part of the income,

(*2*) if, in the previous year, the income applied to charitable or religious purposes in India falls short of seventy-five per cent of the income derived during that year from property held under trust, or, as the case may be, held under trust in part, by any amount—

(*i*) for the reason that the whole or any part of the income has not been received during that year, or

(*ii*) for any other reason,

then—

(*a*) in the case referred to in sub-clause (*i*), so much of the income applied to such purposes in India during the previous year in which the income is received or during the previous year immediately following as does not exceed the said amount, and

(*b*) in the case referred to in sub-clause (*ii*), so much of the income applied to such purposes in India during the previous year immediately following the previous year in which the income was derived as does not exceed the said amount,

may, at the option of the person in receipt of the income (such option to be exercised in writing before the expiry of the time allowed under sub-section (1) or sub-section (2) of section 139, whether fixed originally or on extension for furnishing the return of income) be deemed to be income applied to such purposes during the previous year in which the income was derived, and the income so deemed to have been applied shall not be taken into account in calculating the amount of income applied to such purposes, in the case referred to in sub-clause (*i*), during the previous year in which the income is received or during the previous year immediately following, as the case may be, and, in the case referred to in sub-clause (*ii*),

[23] Inserted by s 5, F Act, 1972, w e f 1-4-1973.
[24] Substituted by s 5, F Act, 1970, w e f 1-4-1971, and further substituted by s 4, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976

during the previous year immediately following the previous year in which the income was derived]

[25][(1A) For the purposes of sub-section (1),—

(*a*) where a capital asset, being property held under trust wholly for charitable or religious purposes, is transferred and the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held, then, the capital gain arising from the transfer shall be deemed to have been applied to charitable or religious purposes to the extent specified hereunder, namely:—

(*i*) where the whole of the net consideration is utilised in acquiring the new capital asset, the whole of such capital gain,

(*ii*) where only a part of the net consideration is utilised for acquiring the new capital asset, so much of such capital gain as is equal to the amount, if any, by which the amount so utilised exceeds the cost of the transferred asset,

(*b*) where a capital asset, being property held under trust in part only for such purposes, is transferred and the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held, then, the appropriate fraction of the capital gain arising from the transfer shall be deemed to have been applied to charitable or religious purposes to the extent specified hereunder, namely:—

(*i*) where the whole of the net consideration is utilised in acquiring the new capital asset, the whole of the appropriate fraction of such capital gain,

(*ii*) in any other case, so much of the appropriate fraction of the capital gain as is equal to the amount, if any, by which the appropriate fraction of the amount utilised for acquiring the new asset exceeds the appropriate fraction of the cost of the transferred asset

Explanation —In this sub-section,—

(*i*) "appropriate fraction" means the fraction which represents the extent to which the income derived from the capital asset transferred was immediately before such transfer applicable to charitable or religious purposes,

(*ii*) "cost of the transferred asset" means the aggregate of the cost of acquisition (as ascertained for the purposes of sections 48 and 49) of the capital asset which is the subject of the transfer and the cost of any improvement thereto within the meaning assigned to that expression in sub-clause (*b*) of clause (*1*) of section 55,

(*iii*) "net consideration" means the full value of the consideration received or accruing as a result of the transfer of the capital asset as reduced by any expenditure incurred wholly and exclusively in connection with such transfer]

[1][(1B) Where any income in respect of which an option is exercised under clause (2) of the *Explanation* to sub-section (1) is not applied to charitable or religious purposes in India during the period referred to in sub-clause (*a*) or, as the case

[25] Retrospectively inserted by s 5, F (No 2) Act, 1971
[1] Inserted by s 4, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976

may be, sub-clause (*b*), of the said clause, then, such income shall be deemed to be the income of the person in receipt thereof—

(*a*) in the case referred to in sub-clause (*i*) of the said clause, of the previous year immediately following the previous year in which the income was received, or

(*b*) in the case referred to in sub-clause (*ii*) of the said clause, of the previous year immediately following the previous year in which the income was derived]

[2][(2) [3][Where seventy-five per cent of the income referred to in clause (*a*) or clause (*b*) of sub-section (1) read with the *Explanation* to that sub-section is not applied, or is not deemed to have been applied, to charitable or religious purposes in India during the previous year but is accumulated or set apart, either in whole or in part, for application to such purposes in India, such income so accumulated or set apart shall not be included in the total income of the previous year of the person in receipt of the income, provided the following conditions are complied with, namely —]

(*a*) such person specifies, by notice in writing given to the Income-tax Officer in the prescribed manner, the purpose for which the income is being accumulated or set apart and the period for which the income is to be accumulated or set apart, which shall in no case exceed ten years, **R 17**

(*b*) the money so accumulated or set apart is—

(*i*) invested in any Government security as defined in clause (2) of section 2 of the Public Debt Act, 1944 (XVIII of 1944), or in any other security which may be approved by the Central Government in this behalf, or

(*ii*) deposited in any account with the Post Office Savings Bank (including deposits made under the Post Office (Time Deposits) Rules, 1970) or a banking company to which the Banking Regulation Act, 1949 (X of 1949), applies (including any bank or banking institution referred to in section 51 of that Act) or a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank), or

(*iii*) deposited in an account with a financial corporation which is engaged in providing long-term finance for industrial development in India and which is approved by the Central Government for the purposes of clause (*viii*) of sub-section (1) of section 36]

[4][(3) Any income referred to in sub-section (2) which—

(*a*) is applied to purposes other than charitable or religious purposes as aforesaid or ceases to be accumulated or set apart for application thereto, or

(*b*) ceases to remain invested in any security referred to in sub-clause (*i*) or deposited in any account referred to in sub-clause (*ii*) or sub-clause (*iii*) of clause (*b*) of that sub-section, or

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[2] Substituted by s 5, F Act, 1970, w e f 1-4-1971
[3] Substituted by s 4, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976
[4] Substituted by s 5, F Act, 1970, w e f 1-4-1971

(c) is not utilised for the purpose for which it is so accumulated or set apart during the period referred to in clause (a) of that sub-section or in the year immediately following the expiry thereof,

shall be deemed to be the income of such person of the previous year in which it is so applied or ceases to be so accumulated or set apart or ceases to remain so invested or deposited or, as the case may be, of the previous year immediately following the expiry of the period aforesaid.]

[5][(3A) Notwithstanding anything contained in sub-section (3), where due to circumstances beyond the control of the person in receipt of the income, any income invested or deposited in accordance with the provisions of clause (b) of sub-section (2) cannot be applied for the purpose for which it was accumulated or set apart, the Income-tax Officer may, on an application made to him in this behalf, allow such person to apply such income for such other charitable or religious purpose in India as is specified in the application by such person and as is in conformity with the objects of the trust, and thereupon the provisions of sub-section (3) shall apply as if the purpose specified by such person in the application under this sub-section were a purpose specified in the notice given to the Income-tax Officer under clause (a) of sub-section (2).]

(4) For the purposes of this section "property held under trust" includes a business undertaking so held, and where a claim is made that the income of any such undertaking shall not be included in the total income of the persons in receipt thereof, the Income-tax Officer shall have power to determine the income of such undertaking in accordance with the provisions of this Act relating to assessment, and where any income so determined is in excess of the income as shown in the accounts of the undertaking, such excess shall be deemed to be applied to purposes other than charitable or religious purposes [6]* *

[7][**12. Income of trusts or institutions from contributions.**—Any voluntary contributions received by a trust created wholly for charitable or religious purposes or by an institution established wholly for such purposes (not being contributions made with a specific direction that they shall form part of the corpus of the trust or institution) shall for the purposes of section 11 be deemed to be income derived from property held under trust wholly for charitable or religious purposes and the provisions of that section and section 13 shall apply accordingly

12A. Conditions as to registration of trusts, etc.—The provisions of section 11 and section 12 shall not apply in relation to the income of any trust or institution unless the following conditions are fulfilled, namely —

R 17A (a) the person in receipt of the income has made an application for registration of the trust or institution in the prescribed form and in the prescribed manner to the Commissioner before the 1st day of July, 1973, or before the expiry of a period of one year from the date of the creation of the trust or the establishment of the institution, whichever is later

Provided that the Commissioner may, in his discretion, admit an application for the registration of any trust or institution after the expiry of the period aforesaid,

R 17B (b) where the total income of the trust or institution as computed under this Act without giving effect to the provisions of section 11 and section 12

[5] Inserted by s 4, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976
[6] "And accordingly chargeable to tax within the meaning of sub-section (3)" omitted by s 5, F Act, 1970, w e f 1-4-1971
[7] Substituted for s 12 by s 6, F Act, 1972, w e f 1-4-1973

exceeds twenty-five thousand rupees in any previous year, the accounts of the trust or institution for that year have been audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288 and the person in receipt of the income furnishes along with the return of income for the relevant assessment year the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed]

[8][**13. Section 11 not to apply in certain cases.**—(1) Nothing contained in section 11 [9][or section 12] shall operate so as to exclude from the total income of the previous year of the person in receipt thereof—

(*a*) any part of the income from the property held under a trust for private religious purposes which does not enure for the benefit of the public,

(*b*) in the case of a trust for charitable purposes or a charitable institution created or established after the commencement of this Act, any income thereof if the trust or institution is created or established for the benefit of any particular religious community or caste,

[10][(*bb*) in the case of a charitable trust or institution for the relief of the poor, education or medical relief, which carries on any business, any income derived from such business, unless the business is carried on in the course of the actual carrying out of a primary purpose of the trust or institution,]

(*c*) in the case of a trust for charitable or religious purposes or a charitable or religious institution, any income thereof—

(*i*) if such trust or institution has been created or established after the commencement of this Act and under the terms of the trust or the rules governing the institution, any part of such income enures, or

(*ii*) if any part of such income or any property of the trust or institution (whenever created or established) is during the previous year used or applied,

directly or indirectly for the benefit of any person referred to in sub-section (3)

Provided that in the case of a trust or institution created or established before the commencement of this Act, the provisions of sub-clause (*ii*) shall not apply to any use or application, whether directly or indirectly, of any part of such income or any property of the trust or institution for the benefit of any person referred to in sub-section (3), if such use or application is by way of compliance with a mandatory term of the trust or a mandatory rule governing the institution·

Provided further that in the case of a trust for religious purposes or a religious institution (whenever created or established) or a trust for charitable purposes or a charitable institution created or established before the commencement of this Act, the provisions of sub-clause (*ii*) shall not apply to any use or application, whether directly or indirectly, of any part of such income or any property of the trust or institution for the benefit of any person referred to in sub-section (3) in so far as such use or application relates to any period before the 1st day of June, 1970,

[8] Substituted by s 6, F Act, 1970, w e f 1-4-1971
[9] Inserted by s 7, F Act, 1972, w e f 1-4-1973
[10] Inserted by s 5, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1977

[11][(*d*) subject to the provisions of clause (*bb*), in the case of a trust for charitable or religious purposes or a charitable or religious institution, any income thereof assessable for any assessment year commencing on or after the 1st day of April, 1979, if any funds of the trust or institution are invested or deposited or continue to remain invested or deposited for any period during any previous year commencing on or after the 1st day of April, 1978, otherwise than in any of the forms or modes specified in sub-section (5)]

[12][*Explanation*.—For the purposes of sub-clause (*ii*) of clause (*c*), in determining whether any part of the income or any property of any trust or institution is during the previous year used or applied, directly or indirectly, for the benefit of any person referred to in sub-section (3), in so far as such use or application relates to any period before the 1st day of July, 1972, no regard shall be had to the amendments made to this section by section 7 (other than sub-clause (*ii*) of clause (*a*) thereof) of the Finance Act, 1972.]

(2) Without prejudice to the generality of the provisions of clause (*c*) of sub-section (1), the income or the property of the trust or institution or any part of such income or property shall, for the purposes of that clause, be deemed to have been used or applied for the benefit of a person referred to in sub-section (3),—

(*a*) if any part of the income or property of the trust or institution is, or continues to be, lent to any person referred to in sub-section (3) for any period during the previous year without either adequate security or adequate interest or both,

(*b*) if any land, building or other property of the trust or institution is, or continues to be, made available for the use of any person referred to in sub-section (3), for any period during the previous year without charging adequate rent or other compensation,

(*c*) if any amount is paid by way of salary, allowance or otherwise during the previous year to any person referred to in sub-section (3) out of the resources of the trust or institution for services rendered by that person to such trust or institution and the amount so paid is in excess of what may be reasonably paid for such services,

(*d*) if the services of the trust or institution are made available to any person referred to in sub-section (3) during the previous year without adequate remuneration or other compensation,

(*e*) if any share, security or other property is purchased by or on behalf of the trust or institution from any person referred to in sub-section (3) during the previous year for consideration which is more than adequate,

(*f*) if any share, security or other property is sold by or on behalf of the trust or institution to any person referred to in sub-section (3) during the previous year for consideration which is less than adequate,

[13][(*g*) if any income or property of the trust or institution is diverted during the previous year in favour of any person referred to in sub-section (3)

Provided that this clause shall not apply where the income, or the value of the property or, as the case may be, the aggregate of the income and the value of the property, so diverted does not exceed one thousand rupees,]

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11 Inserted by s. 5, Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1977.
12 Inserted by s. 7, F. Act, 1972, w.e.f. 1-4-1973.
13 Substituted, *ibid*., w.e.f. 1-4-1973.

(h) if any funds of the trust or institution are, or continue to remain, invested for any period during the previous year (not being a period before the 1st day of January, 1971) in any concern in which any person referred to in sub-section (3) has a substantial interest

(3) The persons referred to in clause (c) of sub-section (1) and sub-section (2) are the following, namely —

(a) the author of the trust or the founder of the institution,

(b) any person who has made a substantial contribution to the trust or institution, [14][that is to say, any person whose total contribution up to the end of the relevant previous year exceeds five thousand rupees],

(c) where such author, founder or person is a Hindu undivided family, a member of the family,

[15][(cc) any trustee of the trust or manager (by whatever name called) of the institution,]

(d) any relative of any such author, founder, person, [16][member, trustee or manager] as aforesaid,

(e) any concern in which any of the persons referred to in clauses (a), (b), (c), [17][(cc)] and (d) has a substantial interest

(4) Notwithstanding anything contained in clause (c) of sub-section (1), in a case where the aggregate of the funds of the trust or institution invested in a concern in which any person referred to in sub-section (3) has a substantial interest, does not exceed five per cent of the capital of that concern, the exemption under section 11 [18][or section 12] shall not be denied in relation to any income other than the income arising to the trust or the institution from such investment, by reason only that the [19][funds] of the trust or the institution have been invested in a concern in which such person has a substantial interest

[20][(5) The forms and modes of investing or depositing funds referred to in clause (d) of sub-section (1) shall be—

(a) subject to the provisions of clause (b), in a case where such funds represent the original corpus of the trust or institution or any contributions made to the trust or institution with a specific direction that they shall form part of the corpus of the trust or institution,—

(i) investment in savings certificates as defined in clause (c) of section 2 of the Government Savings Certificates Act, 1959 (XLVI of 1959), and any other securities or certificates issued by the Central Government under the small savings schemes of that Government,

(ii) deposit in any account with the Post Office Savings Bank,

(iii) deposit in any account with any nationalised bank, that is to say, any corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (V of 1970),

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[14] Inserted by s 5, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1977
[15] Inserted by s 7, F Act, 1972, w e f 1-4-1973
[16] Substituted for "or member", ibid, w e f 1-4-1973
[17] Inserted, ibid, w e f 1-4-1973
[18] Inserted, ibid, w e f 1-4-1973
[19] Substituted for "moneys" by s 6, F (No 2) Act, 1971, w. e f 1-4-1971
[20] Inserted by s 5, Taxation Laws (Amendment) Act, 1975, w e. f 1-4-1977.

(iv) investment in units in the Unit Trust of India established under the Unit Trust of India Act, 1963 (LII of 1963),

(v) investment in any security for money created and issued by the Central Government or a State Government,

(vi) investment in debentures issued by, or on behalf of, any company or corporation both the principal whereof and the interest whereon are fully and unconditionally guaranteed by the Central Government or by a State Government,

(vii) investment or deposit in any Government company as defined in section 617 of the Companies Act, 1956 (I of 1956),

(b) in a case where such funds represent—

(i) the corpus of the trust or institution immediately before the 1st day of June, 1973, or

(ii) the original corpus (being assets other than cash) of any trust or institution created or established on or after the 1st day of June, 1973, or

(iii) any contributions (otherwise than in cash) made to any trust or institution on or after the 1st day of June, 1973, with a specific direction that they shall form part of the corpus of the trust or institution,

any form or mode, other than investment in shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) in a company (not being a Government company as defined in section 617 of the Companies Act, 1956 (I of 1956), or a corporation established by or under a Central, State or Provincial Act),

(c) in any other case, the forms or modes referred to in sub-clause (i), sub-clause (ii), sub-clause (iii) and sub-clause (iv) of clause (a)

(6) Nothing contained in clause (d) of sub-section (1) shall apply in relation to any monies accumulated or finally set apart and invested or deposited in the manner referred to in clause (b) of sub-section (2) of section 11]

[21][*Explanation 1*—For the purposes of sections 11, 12, 12A and this section, "trust" includes any other legal obligation and for the purposes of this section "relative", in relation to an individual, means—

(i) spouse of the individual,

(ii) brother or sister of the individual,

(iii) brother or sister of the spouse of the individual,

(iv) any lineal ascendant or descendant of the individual,

(v) any lineal ascendant or descendant of the spouse of the individual,

(vi) spouse of a person referred to in sub-clause (ii), sub-clause (iii), sub-clause (iv) or sub-clause (v),

(vii) any lineal descendant of a brother or sister of either the individual or of the spouse of the individual]

Explanation 2—A trust or institution created or established for the benefit of Scheduled Castes, backward classes, Scheduled Tribes or women and children shall

[21] Substituted by s 7, F Act, 1972, w e f 1-4-1973

not be deemed to be a trust or institution created or established for the benefit of a religious community or caste within the meaning of clause (*b*) of sub-section (1).

Explanation 3—For the purposes of this section, a person shall be deemed to have a substantial interest in a concern,—

(*i*) in a case where the concern is a company, if its shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than twenty per cent of the voting power are, at any time during the previous year, owned beneficially by such person or partly by such person and partly by one or more of the other persons referred to in sub-section (3),

(*ii*) in the case of any other concern, if such person is entitled, or such person and one or more of the other persons referred to in sub-section (3) are entitled in the aggregate, at any time during the previous year, to not less than twenty per cent of the profits of such concern]

CHAPTER IV

COMPUTATION OF TOTAL INCOME

Heads of income

14. Heads of income.—Save as otherwise provided by this Act, all income shall, for the purposes of charge of income-tax and computation of total income, be classified under the following heads of income —

A —Salaries

B —Interest on securities

C —Income from house property

D —Profits and gains of business or profession

E —Capital gains

F —Income from other sources

A —Salaries

15. Salaries.—The following income shall be chargeable to income-tax under the head "Salaries"—

(*a*) any salary due from an employer or a former employer to an assessee in the previous year, whether paid or not,

(*b*) any salary paid or allowed to him in the previous year by or on behalf of an employer or a former employer though not due or before it became due to him,

(*c*) any arrears of salary paid or allowed to him in the previous year by or on behalf of an employer or a former employer, if not charged to income-tax for any earlier previous year.

Explanation—For the removal of doubts, it is hereby declared that where any salary paid in advance is included in the total income of any person for any previous

year it shall not be included again in the total income of the person when the salary becomes due

16. Deductions from salaries.—The income chargeable under the head "Salaries" shall be computed after making the following deductions, namely:—

[22][(*i*) in respect of expenditure incidental to the employment of the assessee, a sum calculated on the basis provided hereunder, namely.—

(*a*) where the salary derived from such employment does not exceed Rs 10,000	20 per cent. of such salary;
(*b*) where the salary derived from such employment exceeds Rs 10,000	Rs 2,000 *plus* 10 per cent. of the amount by which such salary exceeds Rs 10,000 *or* Rs 3,500, whichever is less:

Provided that—

(i) where the assessee is in receipt of a conveyance allowance from his employer, or

(ii) where any motor car, motor cycle, scooter or other moped is provided to the assessee by his employer for use by the assessee, otherwise than wholly and exclusively in the performance of his duties, or

(iii) where one or more motor cars are owned or hired by the employer of the assessee and the assessee is allowed the use of such motor car or all or any of such motor cars, otherwise than wholly and exclusively in the performance of his duties,

the deduction under this clause shall not exceed one thousand rupees;]

(*ii*) in respect of any allowance in the nature of an entertainment allowance specifically granted to the assessee by his employer—

(*a*) in the case of an assessee who is in receipt of a salary from the Government, a sum equal to one-fifth of his salary (exclusive of any allowance, benefit or other perquisite) or five thousand rupees, whichever is less; and

(*b*) in the case of any other assessee who is in receipt of such entertainment allowance and has been continuously in receipt of such entertainment allowance regularly from his present employer from a date before the 1st day of April, 1955, the amount of such entertainment allowance regularly received by the assessee from his present employer in any previous year ending before the 1st day of April, 1955, or a sum equal to one-fifth of his salary (exclusive of any allowance, benefit or other perquisite) or seven thousand five hundred rupees, whichever is the least.

(*iii*)-(*v*) [23]* * * * *

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[22] Substituted by s 4, F Act, 1974, w e f 1-4-1975
[23] Omitted, *ibid*, w e f 1-4-1975

17. "Salary", "perquisite" and "profits in lieu of salary" defined.—For the purposes of sections 15 and 16 and of this section,—

(*1*) "salary" includes—

(*i*) wages,

(*ii*) any annuity or pension,

(*iii*) any gratuity,

(*iv*) any fees, commissions, perquisites or profits in lieu of or in addition to any salary or wages,

(*v*) any advance of salary,

(*vi*) the annual accretion to the balance at the credit of an employee participating in a recognised provident fund, to the extent to which it is chargeable to tax under rule 6 of Part A of the Fourth Schedule; and

(*vii*) the aggregate of all sums that are comprised in the transferred balance as referred to in sub-rule (2) of rule 11 of Part A of the Fourth Schedule of an employee participating in a recognised provident fund, to the extent to which it is chargeable to tax under sub-rule (4) thereof,

(*2*) "perquisite" includes— R 3

(*i*) the value of rent-free accommodation provided to the assessee by his employer;

(*ii*) the value of any concession in the matter of rent respecting any accommodation provided to the assessee by his employer,

(*iii*) the value of any benefit or amenity granted or provided free of cost or at concessional rate in any of the following cases—

(*a*) by a company to an employee who is a director thereof,

(*b*) by a company to an employee being a person who has a substantial interest in the company,

(*c*) by any employer (including a company) to an employee to whom the provisions of paragraphs (*a*) and (*b*) of this sub-clause do not apply and whose income under the head "Salaries", exclusive of the value of all benefits or amenities not provided for by way of monetary payment, exceeds eighteen thousand rupees;

(*iv*) any sum paid by the employer in respect of any obligation which, but for such payment, would have been payable by the assessee, and

(*v*) any sum payable by the employer, whether directly or through a fund, other than a recognised provident fund or an approved superannuation fund, to effect an assurance on the life of the assessee or to effect a contract for an annuity,

(*3*) "profits in lieu of salary" [illegible] s—

(*i*) the amount of any [illegible] on due to or received by an assessee from his employer [illegible] nployer at or in connection with [illegible] termination of [illegible] or the modification of the and conditions r [illegible]

(ii) any payment (other than any payment referred to in clause (*10*), [24][clause (*10A*),] [25][clause (*10B*),] clause (*11*), [1][clause (*12*) or clause (*13A*)] of section 10), due to or received by an assessee from an employer or a former employer or from a provident or other fund (not being an approved superannuation fund), to the extent to which it does not consist of contributions by the assessee or interest on such contributions

B—Interest on securities

18. Interest on securities.—(1) The following amounts due to an assessee in the previous year shall be chargeable to income-tax under the head "Interest on securities",—

(*i*) interest on any security of the Central or State Government [2][not being interest payable under section 280D in respect of any annuity deposit made under Chapter XXII-A],

(*ii*) interest on debentures or other securities for money issued by or on behalf of a local authority or a company or a corporation established by a Central, State or Provincial Act

(2) Nothing contained in sub-section (1) shall be construed as precluding an assessee from being charged to income-tax in respect of any interest on securities received by him in a previous year if such interest had not been charged to income-tax for any earlier previous year

19. Deductions from interest on securities.—Subject to the provisions of section 21, the income chargeable under the head "Interest on securities" shall be computed after making the following deductions—

(*i*) any reasonable sum expended by the assessee for the purpose of realising such interest,

(*ii*) any interest payable on moneys borrowed for the purpose of investment in the securities by the assessee

20. Deductions from interest on securities in the case of a banking company.—(1) In the case of a banking company—

(*i*) the sum to be regarded as a sum reasonably expended for the purpose referred to in clause (*i*) of section 19 shall be an amount bearing to the aggregate of its expenses as are admissible under the provisions of sections 30, 31, 36 and 37 (other than clauses (*iii*), (*vi*) and (*vii*) of sub-section (1) of section 36) the same proportion as the gross receipts from interest on securities (inclusive of tax deducted at source) chargeable to income-tax under section 18 bear to the gross receipts of the company from all sources which are included in the profit and loss account of the company,

(*ii*) the amount to be regarded as interest payable on moneys borrowed for the purpose referred to in clause (*ii*) of section 19 shall be an amount which bears to the amount of interest payable on all moneys borrowed by the company the same proportion as the gross receipts from interest

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24 Retrospectively inserted by s 4, F (No 2) Act, 1965
25 Inserted by s 24, F Act, 1975, w e f 1-4-1976
1 Substituted for "or clause (*12*)" by s 4, Direct Taxes (Amendment) Act, 1964, w e f 6-10-1964
2 Inserted by s 7, F Act, 1965, w e f 1-4-1965

on securities (inclusive of tax deducted at source) chargeable to income-tax under section 18 bear to the gross receipts from all sources which are included in the profit and loss account of the company.

(2) The expenses deducted under clauses (i) and (ii) of sub-section (1) shall not again form part of the deductions admissible under sections 30 to 37 for the purposes of computing the income of the company under the head "Profits and gains of business or profession".

Explanation—For the purposes of this section, "moneys borrowed" includes moneys received by way of deposits.

21. Amounts not deductible from interest on securities.—Notwithstanding anything contained in sections 19 and 20, any interest chargeable under this Act which is payable outside India (not being interest on a loan issued for public subscription before the 1st day of April, 1938) on which tax has not been paid or deducted under Chapter XVII-B, and in respect of which there is no person in India who may be treated as an agent under section 163 shall not be deducted in computing the income chargeable under the head "Interest on securities"

C—Income from house property

22. Income from house property.—The annual value of property consisting of any buildings or lands appurtenant thereto of which the assessee is the owner, other than such portions of such property as he may occupy for the purposes of any business or profession carried on by him the profits of which are chargeable to income-tax, shall be chargeable to income-tax under the head "Income from house property"

23. Annual value how determined.—(1) [3][For the purposes of section 22, the annual value of any property shall be deemed to be—

(*a*) the sum for which the property might reasonably be expected to let from year to year, or

(*b*) where the property is let and the annual rent received or receivable by the owner in respect thereof is in excess of the sum referred to in clause (*a*), the amount so received or receivable]

[4][Provided that where the property is in the occupation of a tenant, the taxes levied by any local authority in respect of the property shall, to the extent such taxes are borne by the owner, be deducted in determining the annual value of the property]

[5][Provided further that the annual value as determined under this sub-section shall,—

(*a*) in the case of a building comprising one or more residential units, the erection of which is begun after the 1st day of April, 1961, and completed before the 1st day of April, 1970, for a period of three years from the date of completion of the building, be reduced by a sum equal to the aggregate of—

(*i*) in respect of any residential unit whose annual value as so determined does not exceed six hundred rupees, the amount of such annual value,

(*ii*) in respect of any residential unit whose annual value as so determined exceeds six hundred rupees, an amount of six hundred rupees,

[3] Substituted by s 6, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976
[4] Substituted by s 30 and 3rd Sch , F Act, 1968, w e f 1-4-1969
[5] Substituted by s 4, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

(b) in the case of a building comprising one or more residential units, the erection of which is begun after the 1st day of April, 1961, and completed after the 31st day of March, 1970, for a period of five years from the date of completion of the building, be reduced by a sum equal to the aggregate of—

(i) in respect of any residential unit whose annual value as so determined does not exceed one thousand two hundred rupees, the amount of such annual value,

(ii) in respect of any residential unit whose annual value as so determined exceeds one thousand two hundred rupees, an amount of one thousand two hundred rupees,

so, however, that the income in respect of any residential unit referred to in clause (a) or clause (b) is in no case a loss]

[6][*Explanation* —For the purposes of this sub-section, "annual rent" means—

(a) in a case where the property is let throughout the previous year, the actual rent received or receivable by the owner in respect of such year, and

(b) in any other case, the amount which bears the same proportion to the amount of the actual rent received or receivable by the owner for the period for which the property is let, as the period of twelve months bears to such period]

[7][(2) Where the property consists of—

(i) a house in the occupation of the owner for the purposes of his own residence, the annual value of such house shall first be determined in the same manner as if the property had been let and further be reduced by one-half of the amount so determined or one thousand and eight hundred rupees, whichever is less,

(ii) more than one house in the occupation of the owner for the purposes of his own residence, the provisions of clause (i) shall apply only in respect of one of such houses, which the assessee may, at his option, specify in this behalf

Provided that for the purposes of clauses (i) and (ii), where the sum so arrived at exceeds ten per cent of the total income of the owner (the total income for this purpose being computed without including therein any income from such property and before making any deduction under Chapter VI-A), the excess shall be disregarded

Explanation —Where any such residential unit as is referred to in the second proviso to sub-section (1) is in the occupation of the owner for the purposes of his own residence, nothing contained in that proviso shall apply in computing the annual value of that residential unit

(2A) For the removal of doubt, it is hereby declared that, where the property consists of more than one house and such houses are in the occupation of the owner for the purposes of his own residence, the annual value of the houses, other than that the annual value of which is required to be determined under clause (ii) of sub-section (2), shall be determined under sub-section (1) as if such houses had been let]

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[6] Inserted by s 6, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976
[7] Substituted for sub-s (2), *ibid*, w e f 1-4-1976 The prior sub-s (2) substituted by s 4, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

(3) Where the property referred to in sub-section (2) consists of one residential house only and it cannot actually be occupied by the owner by reason of the fact that owing to his employment, business or profession carried on at any other place, he has to reside at that other place in a building not belonging to him, the annual value of such house shall—

(*a*) if the house was not actually occupied by the owner during the whole of the previous year, be taken to be nil, or

(*b*) if the house was actually occupied by the owner for a fraction of the previous year, be taken to be that fraction of the annual value determined under sub-section (2)

Provided that the following conditions are in either case fulfilled·—

(*i*) the house is not actually let, and

(*ii*) no other benefit therefrom is derived by the owner

24. Deductions from income from house property.—(1) Income chargeable under the head "Income from house property" shall, subject to the provisions of sub-section (2), be computed after making the following deductions, namely —

(*i*) in respect of repairs,—

(*a*) where the property is in the occupation of the owner, or where the property is let to a tenant and the owner has undertaken to bear the cost of repairs, a sum equal to one-sixth of the annual value,

(*b*) where the property is in the occupation of a tenant who has undertaken to bear the cost of repairs,—

(i) the excess of the annual value over the amount of rent payable for a year by the tenant, or

(ii) a sum equal to one-sixth of the annual value,

whichever is less,

(*ii*) the amount of any premium paid to insure the property against risk of damage or destruction,

(*iii*) [8]* * * * *

(*iv*) where the property is subject to an annual charge, [9][(not being a charge created by the assessee voluntarily or a capital charge)], the amount of such charge,

(*v*) where the property is subject to a ground rent, the amount of such ground rent,

(*vi*) where the property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable on such capital,

(*vii*) any sums paid on account of land revenue [10][or any other tax levied by the State Government] in respect of the property,

(*viii*) any sums spent to collect the rent from the property, not exceeding six per cent of the annual value of the property,

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[8] Omitted by s 30 and 3rd Sch , F Act, 1968, w. e f 1-4-1969
[9] Substituted for "not being a capital charge", *ibid*, w e f 1-4-1969
[10] Inserted, *ibid*, w e f 1-4-1969

(ix) where the property is let and was vacant during a part of the year, that part of the annual value which is proportionate to the period during which the property is wholly unoccupied or, where the property is let out in parts, that portion of the annual value appropriate to any vacant part, which is proportionate to the period during which such part is wholly unoccupied, and

R 4 (x) subject to such rules as may be made in this behalf, the amount in respect of rent from property let to a tenant which the assessee cannot realise

(2) The total amount deductible under sub-section (1) in respect of property of the nature referred to in sub-section (3) of section 23 shall not exceed the annual value of the property as determined under section 23

25. Amounts not deductible from income from house property.—Notwithstanding anything contained in section 24, any annual charge or interest chargeable under this Act which is payable outside India (not being interest on a loan issued for public subscription before the 1st day of April, 1938), on which tax has not been paid or deducted under Chapter XVII-B and in respect of which there is no person in India who may be treated as an agent under section 163 shall not be deducted in computing the income chargeable under the head "Income from house property"

26. Property owned by co-owners.—Where property consisting of buildings or buildings and lands appurtenant thereto is owned by two or more persons and their respective shares are definite and ascertainable, such persons shall not in respect of such property be assessed as an association of persons, but the share of each such person in the income from the property as computed in accordance with sections 22 to 25 shall be included in his total income

[11][*Explanation* —For the purposes of this section, in applying the provisions of sub-section (2) of section 23 for computing the share of each such person as is referred to in this section, such share shall be computed, as if each such person is individually entitled to the relief provided in that sub-section]

27. "Owner of house property", "annual charge", etc , defined.—For the purposes of sections 22 to 26—

(i) an individual who transfers otherwise than for adequate consideration any house property to his or her spouse, not being a transfer in connection with an agreement to live apart, or to a minor child not being a married daughter, shall be deemed to be the owner of the house property so transferred,

(ii) the holder of an impartible estate shall be deemed to be the individual owner of all the properties comprised in the estate,

(iii) a member of a co-operative society to whom a building or part thereof is allotted or leased under a house building scheme of the society shall be deemed to be the owner of that building or part thereof,

(iv) "annual charge" means a charge to secure an annual liability, but does not include any tax in respect of property or income from property imposed by a local authority, or the Central or a State Government,

(v) "capital charge" means a charge to secure the discharge of a liability of a capital nature,

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11 Inserted by s 7, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976

(vi) taxes levied by a local authority in respect of any property shall be deemed to include service taxes levied by the local authority in respect of the property.

D—Profits and gains of business or profession

28. Profits and gains of business or profession.—The following income shall be chargeable to income-tax under the head "Profits and gains of business or profession",—

(i) the profits and gains of any business or profession which was carried on by the assessee at any time during the previous year,

(ii) any compensation or other payment due to or received by,—

(a) any person, by whatever name called, managing the whole or substantially the whole of the affairs of an Indian company, at or in connection with the termination of his management or the modification of the terms and conditions relating thereto,

(b) any person, by whatever name called, managing the whole or substantially the whole of the affairs in India of any other company, at or in connection with the termination of his office or the modification of the terms and conditions relating thereto,

(c) any person, by whatever name called, holding an agency in India for any part of the activities relating to the business of any other person, at or in connection with the termination of the agency or the modification of the terms and conditions relating thereto,

[12][(d) any person, for or in connection with the vesting in the Government, or in any corporation owned or controlled by the Government, under any law for the time being in force, of the management of any property or business,]

(iii) income derived by a trade, professional or similar association from specific services performed for its members,

[13][(iv) the value of any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession]

Explanation 1—The profits and gains of a business shall include the profits and gains of managing agency.

Explanation 2—Where speculative transactions carried on by an assessee are of such a nature as to constitute a business, the business (hereinafter referred to as "speculation business") shall be deemed to be distinct and separate from any other business

29. Income from profits and gains of business or profession, how computed.—The income referred to in section 28 shall be computed in accordance with the provisions contained in sections 30 to [14][43A]

30. Rent, rates, taxes, repairs and insurance for buildings.—In respect of rent, rates, taxes, repairs and insurance for premises, used for the purposes of the business or profession, the following deductions shall be allowed—

[12] Inserted by s 4, F Act, 1973, w e f. 1-4-1972
[13] Inserted by s 7, F Act, 1964, w e f 1-4-1964
[14] Substituted for "43" by s 7, F (No 2) Act, 1967, w e f 1-4-1967

(*a*) where the premises are occupied by the assessee—

(*i*) as a tenant, the rent paid for such premises, and further if he has undertaken to bear the cost of repairs to the premises, the amount paid on account of such repairs,

(*ii*) otherwise than as a tenant, the amount paid by him on account of current repairs to the premises,

(*b*) any sums paid on account of land revenue, local rates or municipal taxes,

(*c*) the amount of any premium paid in respect of insurance against risk of damage or destruction of the premises

31. Repairs and insurance of machinery, plant and furniture.—In respect of repairs and insurance of machinery, plant or furniture used for the purposes of the business or profession, the following deductions shall be allowed—

(*i*) the amount paid on account of current repairs thereto;

(*ii*) the amount of any premium paid in respect of insurance against risk of damage or destruction thereof

32. Depreciation.—(1) In respect of depreciation of buildings, machinery, plant or furniture owned by the assessee and used for the purposes of the business or profession, the following deductions shall, subject to the provisions of section 34, be allowed—

R 5 [15][(*i*) in the case of ships other than ships ordinarily plying on inland waters, such percentage on the actual cost thereof to the assessee as may, in any case or class of cases or in respect of any period or periods, be prescribed

Provided that different percentages may be prescribed for different periods having regard to the date of acquisition of the ship;]

R 5 (*ii*) in the case of buildings, machinery, plant or furniture, other than ships covered by clause (*i*), such percentage on the written down value thereof as may in any case or class of cases be prescribed

[16][Provided that where the actual cost of any machinery or plant does not exceed seven hundred and fifty rupees, the actual cost thereof shall be allowed as a deduction in respect of the previous year in which such machinery or plant is first put to use by the assessee for the purposes of his business or profession]

[17][Provided further that no deduction shall be allowed under this clause or clause (*iii*) in respect of any motor car manufactured outside India, where such motor car is acquired by the assessee after the 28th day of February, 1975, and is used otherwise than in a business of running it on hire for tourists,]

(*iii*) in the case of any building, machinery, plant or furniture which is sold, discarded, demolished or destroyed in the previous year (other than the previous year in which it is first brought into use), the amount by which the moneys payable in respect of such building, machinery,

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[15] Substituted by s 8, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976
[16] Inserted by s 6, F Act, 1966, w e f 1-4-1966
[17] Inserted by s 4, F Act, 1975, w e f 1-4-1975

plant or furniture, together with the amount of scrap value, if any, fall short of the written down value thereof

Provided that such deficiency is actually written off in the books of the assessee;

Explanation —For the purposes of this clause,—

[18][(*1*) "moneys payable" in respect of any building, machinery, plant or furniture includes—

(*a*) any insurance, salvage or compensation moneys payable in respect thereof,

(*b*) where the building, machinery, plant or furniture is sold, the price for which it is sold,

so, however, that where the actual cost of a motor car is, in accordance with the proviso to clause (*1*) of section 43, taken to be twenty-five thousand rupees, the moneys payable in respect of such motor car shall be taken to be a sum which bears to the amount for which the motor car is sold or, as the case may be, the amount of any insurance, salvage or compensation moneys payable in respect thereof (including the amount of scrap value, if any) the same proportion as the amount of twenty-five thousand rupees bears to the actual cost of the motor car to the assessee as it would have been computed before applying the said proviso,]

(*2*) "sold" includes a transfer by way of exchange or a compulsory acquisition under any law for the time being in force [19][but does not include a transfer, in a scheme of amalgamation, of any asset by the amalgamating company to the amalgamated company where the amalgamated company is an Indian company],

(*iv*) in the case of any building which has been newly erected after the 31st day of March, 1961, where the building is used solely for the purpose of residence of persons employed in the business and [20][the income of each such person chargeable under the head "Salaries" is seven thousand five hundred rupees or less], or where the building is used solely or mainly for the welfare of such persons as a hospital, creche, school, canteen, library, recreational centre, shelter, rest-room or lunch-room, a sum equal to twenty per cent of the actual cost of the building to the assessee in respect of the previous year of erection of the building; but any such sum shall not be deductible in determining the written down value for the purposes of clause (*ii*) of sub-section (1),

[21][(*v*) in the case of any new building, the erection of which is completed after the 31st day of March, 1967, where the building is owned by an Indian company and used by such company as a hotel and such hotel is for the time being approved in this behalf by the Central Government, a sum equal to twenty-five per cent of the actual cost of erection of the building to the assessee, in respect of the previous year in which the erection of the building is completed or, if such building is first brought into use as a hotel in the immediately succeeding previous year, then

18 Substituted by s 6, F Act, 1966, w e f 1-4-1966
19 Inserted by s 8, F (No 2) Act, 1967, w e f 1-4-1967
20 Substituted for "drawing a remuneration not exceeding two hundred rupees per mensem" by s 6, F Act, 1966, w e f 1-4-1966
21 Inserted by s 33 and 3rd Sch , F (No 2) Act, 1967, w e f 1-4-1968

in respect of that previous year, but any such sum shall not be deductible in determining the written down value for the purposes of clause (ii),]

[22][(vi) in the case of a new ship or a new aircraft acquired after the 31st day of May, 1974, by an assessee engaged in the business of operation of ships or aircraft or in the case of new machinery or plant (other than office appliances or road transport vehicles) installed after that date for the purposes of business of generation or distribution of electricity or any other form of power or of construction, manufacture or production of any one or more of the articles or things specified in the list in the Ninth Schedule or in the case of new machinery or plant (other than office appliances or road transport vehicles) installed after that date in a small-scale industrial undertaking for the purposes of business of manufacture or production of any other articles or things, a sum equal to twenty per cent of the actual cost of the ship, aircraft, machinery or plant to the assessee, in respect of the previous year in which the ship or aircraft is acquired or the machinery or plant is installed, or if the ship, aircraft, machinery or plant is first put to use in the immediately succeeding previous year, then, in respect of that previous year, but any such sum shall not be deductible in determining the written down value for the purposes of clause (ii)

Provided that the assessee may, before the expiry of the time allowed under sub-section (1) or sub-section (2) of section 139, whether fixed originally or on extension, for furnishing the return of income for the assessment year in respect of which he first becomes entitled to deduction under this clause, furnish to the Income-tax Officer a declaration in writing that the provisions of this clause shall not apply to him, and if he does so, the provisions of this clause shall not apply to him for that assessment year and for every subsequent assessment year; so, however, that the assessee may, by notice in writing furnished to the Income-tax Officer before the expiry of the time allowed under sub-section (1) or sub-section (2) of section 139, whether fixed originally or on extension, for furnishing the return of income for any such subsequent assessment year, revoke his declaration and upon such revocation, the provisions of this clause shall apply to the assessee for that subsequent assessment year and for every assessment year thereafter

Provided further that no deduction shall be allowed under this clause in respect of—

(a) any machinery or plant installed in any office premises or any residential accommodation, including any accommodation in the nature of a guest-house, and

(b) any ship, aircraft, machinery or plant in respect of which the deduction by way of development rebate is allowable under section 33.

Explanation —For the purposes of this clause,—

(1) "new ship" or "new aircraft" includes a ship or aircraft which before the date of acquisition by the assessee was used by any other person, if it was not at any time previous to the date of such acquisition owned by any person resident in India,

[22] Inserted by s 3, Direct Taxes (Amendment) Act, 1974, w e f 1-4-1975

(2) "new machinery or plant" includes machinery or plant which before its installation by the assessee was used outside India by any other person, if the following conditions are fulfilled, namely —

(a) such machinery or plant was not, at any time previous to the date of such installation by the assessee, used in India,

(b) such machinery or plant is imported into India from any country outside India, and

(c) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of the Indian Income-tax Act, 1922 (XI of 1922), or this Act in computing the total income of any person for any period prior to the date of the installation of the machinery or plant by the assessee,

(3) an industrial undertaking shall be deemed to be a small-scale industrial undertaking, if the aggregate value of the machinery and plant installed, as on the last day of the previous year, for the purposes of the business of the undertaking does not exceed seven hundred and fifty thousand rupees, and for this purpose the value of any machinery or plant shall be,—

(a) in the case of any machinery or plant owned by the assessee, the actual cost thereof to the assessee, and

(b) in the case of any machinery or plant hired by the assessee, the actual cost thereof as in the case of the owner of such machinery or plant]

[23][(1A) Where the business or profession is carried on in a building not owned by the assessee but in respect of which the assessee holds a lease or other right of occupancy and any capital expenditure is incurred by the assessee for the purposes of the business or profession after the 31st day of March, 1970, on the construction of any structure or doing of any work in or in relation to, and by way of renovation or extension of, or improvement to, the building, then, in respect of depreciation of such structure or work, the following deductions shall, subject to the provisions of section 34, be allowed—

(i) such percentage on the written down value of the structure or work as may in any case or class of cases be prescribed, R 5

(ii) in the case of any such structure or work which is sold, discarded, demolished, destroyed or is surrendered as a result of the determination of the lease or other right of occupancy in respect of the building in the previous year (other than the previous year in which it is constructed or done) the amount by which the moneys payable in respect of such structure or work together with the amount of scrap value, if any, fall short of the written down value thereof

Provided that such deficiency is actually written off in the books of the assessee

Explanation —For the purposes of this clause,—

(i) "moneys payable", in respect of any structure or work, includes—

(a) any insurance or compensation moneys payable in respect thereof,

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[23] Inserted by s 5, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

(*b*) where the structure or work is sold, the price for which it is sold, and

(*ii*) "sold" shall have the meaning assigned to it in the *Explanation* to clause (*iii*) of sub-section (1)]

(2) Where, in the assessment of the assessee (or, if the assessee is a registered firm or an unregistered firm assessed as a registered firm, in the assessment of its partners) full effect cannot be given to any allowance under clause (*i*) or clause (*ii*) or clause (*iv*) [24][or clause (*v*)] [25][or clause (*vi*)] of sub-section (1) [1][or under clause (*i*) of sub-section (1A)] in any previous year owing to there being no profits or gains chargeable for that previous year, or owing to the profits or gains chargeable being less than the allowance, then, subject to the provisions of sub-section (2) of section 72 and sub-section (3) of section 73, the allowance or part of the allowance to which effect has not been given, as the case may be, shall be added to the amount of the allowance for depreciation for the following previous year and deemed to be part of that allowance, or if there is no such allowance for that previous year, be deemed to be the allowance for that previous year, and so on for the succeeding previous years.

33. Development rebate.—[2][(1) (*a*) In respect of a new ship or new machinery or plant (other than office appliances or road transport vehicles) which is owned by the assessee and is wholly used for the purposes of the business carried on by him, there shall, in accordance with and subject to the provisions of this section and of section 34, be allowed a deduction, in respect of the previous year in which the ship was acquired or the machinery or plant was installed or, if the ship, machinery or plant is first put to use in the immediately succeeding previous year, then, in respect of that previous year, a sum by way of development rebate as specified in clause (*b*)

(*b*) The sum referred to in clause (*a*) shall be—

(*A*) in the case of a ship, forty per cent of the actual cost thereof to the assessee,

(*B*) in the case of machinery or plant,—

(*i*) where the machinery or plant is installed for the purposes of business of construction, manufacture or production of any one or more of the articles or things specified in the list in the Fifth Schedule,—

(*a*) thirty-five per cent of the actual cost of the machinery or plant to the assessee, where it is installed before the 1st day of April, 1970, and

(*b*) twenty-five per cent. of such cost, where it is installed after the 31st day of March, 1970,

(*ii*) where the machinery or plant is installed after the 31st day of March, 1967, by an assessee being an Indian company in premises used by it as a hotel and such hotel is for the time being approved in this behalf by the Central Government,—

(*a*) thirty-five per cent of the actual cost of the machinery or plant to the assessee, where it is installed before the 1st day of April, 1970, and

(*b*) twenty-five per cent of such cost, where it is installed after the 31st day of March, 1970,

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24 Inserted by s 33 and 3rd Sch, F (No 2) Act, 1967, w e f 1-4-1968
25 Inserted by s 3, Direct Taxes (Amendment) Act, 1974, w e f. 1-4-1975
1 Inserted by s 5, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971
2 Substituted by s 33 and 3rd Sch, F (No 2) Act, 1967, w e f 1-4-1968

(*iii*) where the machinery or plant is installed after the 31st day of March, 1967, being an asset representing expenditure of a capital nature on scientific research related to the business carried on by the assessee,—

(*a*) thirty-five per cent of the actual cost of the machinery or plant to the assessee, where it is installed before the 1st day of April, 1970, and

(*b*) twenty-five per cent of such cost, where it is installed after the 31st day of March, 1970,

(*iv*) in any other case,—

(*a*) twenty per cent of the actual cost of the machinery or plant to the assessee, where it is installed before the 1st day of April, 1970, and

(*b*) fifteen per cent of such cost, where it is installed after the 31st day of March, 1970]

[3][(1A) (*a*) An assessee who, after the 31st day of March, 1964, acquires any ship **R**
which before the date of acquisition by him was used by any other person shall, subject **5A**
to the provisions of section 34, also be allowed as a deduction a sum by way of development rebate at such rate or rates as may be prescribed, provided that the following conditions are fulfilled, namely —

(*i*) such ship was not previous to the date of such acquisition owned at any time by any person resident in India,

(*ii*) such ship is wholly used for the purposes of the business carried on by the assessee, and

(*iii*) such other conditions as may be prescribed.

(*b*) An assessee who instals any machinery or plant (other than office appliances or road transport vehicles) which before such installation by the assessee was used outside India by any other person shall, subject to the provisions of section 34, also be allowed as a deduction a sum by way of development rebate at such rate or rates as may be prescribed, provided that the following conditions are fulfilled, namely —

(*i*) such machinery or plant was not used in India at any time previous to the date of such installation by the assessee,

(*ii*) it is imported in India by the assessee from any country outside India,

(*iii*) no deduction on account of depreciation or development rebate in respect of such machinery or plant has been allowed or is allowable under the provisions of the Indian Income-tax Act, 1922 (XI of 1922), or this Act in computing the total income of any person for any period prior to the date of the installation of the machinery or plant by the assessee,

(*iv*) such machinery or plant is wholly used for the purposes of the business carried on by the assessee, and

(*v*) such other conditions as may be prescribed

(*c*) The development rebate under this sub-section shall be allowed as a deduction in respect of the previous year in which the ship was acquired or the machinery

[3] Inserted by s 8, F. Act, 1964, w e f 1-4-1964

or plant was installed or, if the ship, machinery or plant is first put to use in the immediately succeeding previous year, then, in respect of that previous year]

(2) In the case of a ship acquired or machinery or plant installed after the 31st day of December, 1957, where the total income of the assessee assessable for the assessment year relevant to the previous year in which the ship was acquired or the machinery or plant installed or the immediately succeeding previous year, as the case may be, (the total income for this purpose being computed without making any allowance under sub-section (1) [4][or sub-section (1A)] [5][of this section or sub-section (1) of section 33A] [6][or any deduction under Chapter VI-A or section 280-O]) is nil or is less than the full amount of the development rebate calculated at the rate applicable thereto under [7][sub-section (1) or sub-section (1A), as the case may be],—

(i) the sum to be allowed by way of development rebate for that assessment year under sub-section (1) [4][or sub-section (1A)] shall be only such amount as is sufficient to reduce the said total income to nil, and

(ii) the amount of the development rebate, to the extent to which it has not been allowed as aforesaid, shall be carried forward to the following assessment year, and the development rebate to be allowed for the following assessment year shall be such amount as is sufficient to reduce the total income of the assessee assessable for that assessment year, computed in the manner aforesaid, to nil, and the balance of the development rebate, if any, still outstanding shall be carried forward to the following assessment year and so on, so however that no portion of the development rebate shall be carried forward for more than eight assessment years immediately succeeding the assessment year relevant to the previous year in which the ship was acquired or the machinery or plant installed or the immediately succeeding previous year, as the case may be

Explanation —Where for any assessment year development rebate is to be allowed in accordance with the provisions of sub-section (2) in respect of ships acquired or machinery or plant installed in more than one previous year, and the total income of the assessee assessable for that assessment year (the total income for this purpose being computed without making any allowance under sub-section (1) [8][or sub-section (1A)] [9][of this section or sub-section (1) of section 33A] [10][or any deduction under Chapter VI-A or section 280-O]) is less than the aggregate of the amounts due to be allowed in respect of the assets aforesaid for that assessment year, the following procedure shall be followed, namely —

(i) the allowance under clause (ii) of sub-section (2) shall be made before any allowance under clause (i) of that sub-section is made, and

(ii) where an allowance has to be made under clause (ii) of sub-section (2) in respect of amounts carried forward from more than one assessment year, the amount carried forward from an earlier assessment year shall be allowed before any amount carried forward from a later assessment year

[11][(3) Where, in a scheme of amalgamation, the amalgamating company sells or otherwise transfers to the amalgamated company any ship, machinery or plant in

4 Inserted by s 8, F Act, 1964, w e f 1-4-1964
5 Inserted by s 8, F Act, 1965, w e f 1-4-1965
6 Inserted by s 33 and 3rd Sch , F (No 2) Act, 1967, w e f 1-4-1968
7 Substituted for "that sub-section" by s 8, F Act, 1964, w e f 1-4-1964
8 Inserted by s 8, F Act, 1964, w e f 1-4-1964
9 Inserted by s 8, F Act, 1965, w e f 1-4-1965
10 Inserted by s 33 and 3rd Sch , F (No 2) Act, 1967, w e f 1-4-1968
11 Substituted by s 9, F (No 2) Act, 1967, w e f 1-4-1967

respect of which development rebate has been allowed to the amalgamating company under sub-section (1) or sub-section (1A),—

(*a*) the amalgamated company shall continue to fulfil the conditions mentioned in sub-section (3) of section 34 in respect of the reserve created by the amalgamating company and in respect of the period within which such ship, machinery or plant shall not be sold or otherwise transferred and in default of any of these conditions, the provisions of sub-section (5) of section 155 shall apply to the amalgamated company as they would have applied to the amalgamating company had it committed the default, and

(*b*) the balance of development rebate, if any, still outstanding to the amalgamating company in respect of such ship, machinery or plant shall be allowed to the amalgamated company in accordance with the provisions of sub-section (2), so, however, that the total period for which the balance of development rebate shall be carried forward in the assessments of the amalgamating company and the amalgamated company shall not exceed the period of eight years specified in sub-section (2) and the amalgamated company shall be treated as the assessee in respect of such ship, machinery or plant for the purposes of this section and section 34]

(4) Where a firm is succeeded to by a company in the business carried on by it as a result of which the firm sells or otherwise transfers to the company any ship, machinery or plant, the provisions of clauses (*a*) and (*b*) of sub-section (3) shall, so far as may be, apply to the firm and the company

Explanation —The provisions of this clause shall apply only where—

(*i*) all the property of the firm relating to the business immediately before the succession becomes the property of the company,

(*ii*) all the liabilities of the firm relating to the business immediately before the succession become the liabilities of the company, and

(*iii*) all the shareholders of the company were partners of the firm immediately before the succession

[12][(5) The Central Government, if it considers necessary or expedient so to do, may, by notification in the Official Gazette, direct that the deduction allowable under this section shall not be allowed in respect of a ship acquired or machinery or plant installed after such date, not being earlier than three years from the date of such notification, as may be specified therein]

[13][(6) Notwithstanding anything contained in the foregoing provisions of this section, no deduction by way of development rebate shall be allowed in respect of any machinery or plant installed after the 31st day of March, 1965, in any office premises or any residential accommodation, including any accommodation in the nature of a guest-house]

[14][Provided that the provisions of this sub-section shall not apply in the case of an assessee being an Indian company, in respect of any machinery or plant installed by it in premises used by it as a hotel, where the hotel is for the time being approved in this behalf by the Central Government]

[15][**33A. Development allowance.**—(1) In respect of planting of tea bushes on any land in India owned by an assessee who carries on business of growing

[12] Inserted by s 8, F Act, 1964, w e f 1-4-1964
[13] Inserted by s 8, F Act, 1965, w e f 1-4-1965
[14] Inserted by s 33 and 3rd Sch , F (No 2) Act, 1967, w e f 1-4-1968
[15] Inserted by s 9, F Act, 1965, w e f 1-4-1965

and manufacturing tea in India, a sum by way of development allowance equivalent to—

(i) where tea bushes have been planted on any land not planted at any time with tea bushes or on any land which had been previously abandoned, [16][fifty] per cent of the actual cost of planting, and

(ii) where tea bushes are planted in replacement of tea bushes that have died or have become permanently useless on any land already planted, [17][thirty] per cent of the actual cost of planting,

shall, subject to the provisions of this section, [18][be allowed as a deduction in the manner specified hereunder, namely —

(a) the amount of the development allowance shall, in the first instance, be computed with reference to that portion of the actual cost of planting which is incurred during the previous year in which the land is prepared for planting or replanting, as the case may be, and in the previous year next following, and the amount so computed shall be allowed as a deduction in respect of such previous year next following, and

(b) thereafter, the development allowance shall again be computed with reference to the actual cost of planting, and if the sum so computed exceeds the amount allowed as a deduction under clause (a), the amount of the excess shall be allowed as a deduction in respect of the third succeeding previous year next following the previous year in which the land has been prepared for planting or replanting, as the case may be]

Provided that no deduction under clause (i) shall be allowed unless the planting has commenced after the 31st day of March, 1965, and no deduction shall be allowed under clause (ii) unless the planting has commenced after the 31st day of March, 1965, and been completed before the 1st day of April, 1970

(2) Where the total income of the assessee assessable for the assessment year relevant to [19][the previous year in respect of which the deduction is required to be allowed under sub-section (1)] [20][(the total income for this purpose being computed after deduction of the allowance under sub-section (1) or sub-section (1A) or clause (ii) of sub-section (2) of section 33, but without making any deduction under sub-section (1) of this section or any deduction under Chapter VI-A or section 280-O)] is nil or is less than the full amount of the development allowance calculated at the rates [21][and in the manner] specified in sub-section (1)—

(i) the sum to be allowed by way of development allowance for that assessment year under sub-section (1) shall be only such amount as is sufficient to reduce the said total income to nil, and

(ii) the amount of the development allowance, to the extent to which it has not been allowed as aforesaid, shall be carried forward to the following assessment year, and the development allowance to be allowed for the

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[16] Substituted for "forty" by s 8, F Act, 1966, w e f 1-4-1966
[17] Substituted for "twenty", ibid, w e f 1-4-1966
[18] Substituted for "be allowed as a deduction in respect of the third succeeding previous year next following the previous year in which the land is prepared for planting or replanting, as the case may be", ibid, w e f 1-4-1966
[19] Substituted for "the third succeeding previous year next following the previous year in which the land has been prepared", ibid, w e f 1-4-1966
[20] Substituted for "(the total income for this purpose being computed after making the allowance under sub-section (1) or sub-section (1A) or clause (ii) of sub-section (2) of section 33 but without making any allowance under sub-section (1) of this section)" by s 33 and 3rd Sch, F (No 2) Act, 1967, w e f 1-4-1968
[21] Inserted by s 8, F Act, 1966, w e f 1-4-1966

following assessment year shall be such amount as is sufficient to reduce the total income of the assessee assessable for that assessment year, computed in the manner aforesaid, to nil, and the balance of the development allowance, if any, still outstanding shall be carried forward to the following assessment year and so on, so, however, that no portion of the development allowance shall be carried forward for more than eight assessment years immediately succeeding the assessment year in which the deduction was first allowable

Explanation—Where for any assessment year development allowance is to be allowed in accordance with the provisions of sub-section (2) in respect of more than one previous year, and the total income of the assessee assessable for that assessment year [22][(the total income for this purpose being computed after deduction of the allowance under sub-section (1) or sub-section (1A) or clause (*ii*) of sub-section (2) of section 33, but without making any deduction under sub-section (1) of this section or any deduction under Chapter VI-A or section 280-O)] is less than the amount of the development allowance due to be made in respect of that assessment year, the following procedure shall be followed, namely —

(*i*) the allowance under clause (*ii*) of sub-section (2) of this section shall be made before any allowance under clause (*i*) of that sub-section is made, and

(*ii*) where an allowance has to be made under clause (*ii*) of sub-section (2) of this section in respect of amounts carried forward from more than one assessment year, the amount carried forward from an earlier assessment year shall be allowed before any amount carried forward from a later assessment year

(3) The deduction under sub-section (1) shall be allowed only if the following conditions are fulfilled, namely —

(*i*) the particulars prescribed in this behalf have been furnished by the assessee,

(*ii*) an amount equal to seventy-five per cent of the development allowance to be actually allowed is debited to the profit and loss account of the relevant previous year and credited to a reserve account to be utilised by the assessee during a period of eight years next following for the purposes of the business of the undertaking, other than—

(*a*) for distribution by way of dividends or profits, or

(*b*) for remittance outside India as profits or for the creation of any asset outside India, and

(*iii*) such other conditions as may be prescribed R 8A

(4) If any such land is sold or otherwise transferred by the assessee to any person at any time before the expiry of eight years from the end of the previous year in which the deduction under sub-section (1) was allowed, any allowance under this section shall be deemed to have been wrongly made for the purposes of this Act, and the provisions of sub-section (5A) of section 155 shall apply accordingly

Provided that this sub-section shall not apply—

(*i*) where the land is sold or otherwise transferred by the assessee to the Government, a local authority, a corporation established by a Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (I of 1956), or

[22] Substituted for "(the total income for this purpose being computed after making the allowance under sub-section (1) or sub-section (1A) or clause (*ii*) of sub-section (2) of section 33 but without making any allowance under sub-section (1) of this section)" by s 33 and 3rd Sch , F (No 2) Act, 1967, w e f 1-4-1968

(*ii*) where the sale or transfer of the land is made in connection with the amalgamation or succession referred to in sub-section (5) or sub-section (6).

[23][(5) Where, in a scheme of amalgamation, the amalgamating company sells or otherwise transfers to the amalgamated company any land in respect of which development allowance has been allowed to the amalgamating company under sub-section (1),—

(*a*) the amalgamated company shall continue to fulfil the conditions mentioned in sub-section (3) in respect of the reserve created by the amalgamating company and in respect of the period within which such land shall not be sold or otherwise transferred and in default of any of these conditions, the provisions of sub-section (5A) of section 155 shall apply to the amalgamated company as they would have applied to the amalgamating company had it committed the default, and

(*b*) the balance of development allowance, if any, still outstanding to the amalgamating company in respect of such land shall be allowed to the amalgamated company in accordance with the provisions of sub-section (2), so, however, that the total period for which the balance of development allowance shall be carried forward in the assessments of the amalgamating company and the amalgamated company shall not exceed the period of eight years specified in sub-section (2) and the amalgamated company shall be treated as the assessee in respect of such land for the purposes of this section]

(6) Where a firm is succeeded to by a company in the business carried on by it as a result of which the firm sells or otherwise transfers to the company any land on which development allowance has been allowed, the provisions of clauses (*a*) and (*b*) of sub-section (5) shall, so far as may be, apply to the firm and the company

Explanation —The provisions of this sub-section shall apply if the conditions laid down in the *Explanation* to sub-section (4) of section 33 are fulfilled

(7) For the purposes of this section, "actual cost of planting" means the aggregate of—

(*i*) the cost of preparing the land,

(*ii*) the cost of seeds, cutting and nurseries,

(*iii*) the cost of planting and replanting, and

(*iv*) the cost of upkeep thereof for the previous year in which the land has been prepared and the three successive previous years next following such previous year,

reduced by that portion of the cost, if any, as has been met directly or indirectly by any other person or authority

Provided that where such cost exceeds twelve thousand five hundred rupees per hectare in respect of land situate in a hilly area or exceeds ten thousand rupees per hectare in any other area, then the excess shall be ignored

(8) The Board may, having regard to the elevation and topography, by general or special order, declare any areas to be hilly areas for the purposes of this section and such order shall not be questioned before any court of law or any other authority]

[24][*Explanation* —For the purposes of this section, an assessee having a leasehold or other right of occupancy in any land shall be deemed to own such land and where

[23] Substituted by s 10, F (No 2) Act, 1967, w e f 1-4-1967
[24] Retrospectively inserted by s 5, F Act, 1975

the assessee transfers such right, he shall be deemed to have sold or otherwise transferred such land]

[25][33B. **Rehabilitation allowance.**—Where the business of any industrial undertaking carried on in India is discontinued in any previous year by reason of extensive damage to, or destruction of, any building, machinery, plant or furniture owned by the assessee and used for the purposes of such business as a direct result of—

(*i*) flood, typhoon, hurricane, cyclone, earthquake or other convulsion of nature, or

(*ii*) riot or civil disturbance, or

(*iii*) accidental fire or explosion, or

(*iv*) action by an enemy or action taken in combating an enemy (whether with or without a declaration of war),

and, thereafter, at any time before the expiry of three years from the end of such previous year, the business is re-established, reconstructed or revived by the assessee, he shall, in respect of the previous year in which the business is so re-established, reconstructed or revived, be allowed a deduction of a sum by way of rehabilitation allowance equivalent to sixty per cent of the amount of the deduction allowable to him under clause (*iii*) of sub-section (1) of section 32 in respect of the building, machinery, plant or furniture so damaged or destroyed

Explanation —In this section, "industrial undertaking" means any undertaking which is mainly engaged in the business of generation or distribution of electricity or any other form of power or in the construction of ships or in the manufacture or processing of goods or in mining]

34. Conditions for depreciation allowance and development rebate.—(1) The deductions referred to in sub-section (1) [1][or sub-section (1A)] of section 32 shall be allowed only if the prescribed particulars have been furnished, and the deduction referred to in section 33 shall be allowed only if the particulars prescribed for the purpose of clause (*i*) and clause (*ii*) of sub-section (1) of section 32 have been furnished by the assessee in respect of the ship or machinery or plant

(2) For the purposes of section 32—

(*i*) the aggregate of all deductions in respect of depreciation made under sub-section (1) [1][or sub-section (1A)] of section 32 or under the Indian Income-tax Act, 1922 (XI of 1922), or under any Act repealed by that Act or under the Indian Income-tax Act, 1886 (II of 1886), shall, in no case, exceed the actual cost to the assessee of the buildings, machinery, [2][plant, furniture, structure or work], as the case may be,

[3][*Explanation* —Where a capital asset is transferred—

(i) by a holding company to its subsidiary company or by a subsidiary company to its holding company, or

(ii) by a company to another company in a scheme of amalgamation,

and the conditions specified in clause (*iv*) or clause (*v*) or, as the case may be, clause (*vi*) of section 47 are satisfied, then, in determining the aggregate of all deductions in respect of depreciation under this clause,

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[25] Inserted by s 11, F (No 2) Act, 1967, w e f 1-4-1967
[1] Inserted by s 6, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971
[2] Substituted for "plant or furniture", *ibid*, w e f 1-4-1971
[3] Substituted by s 12, F (No 2) Act, 1967, w e f 1-4-1967

account shall also be taken of the deductions in respect of depreciation allowed in the case of the company from which the asset has been transferred,]

(ii) nothing in clause (i) or clause (ii) or clause (iv) [4][or clause (v) or clause (vi)] of sub-section (1) of section 32 shall be deemed to authorise the allowance for any previous year of any sum in respect of any building, machinery, plant or furniture sold, discarded, demolished or destroyed in that year,

[5][(iii) nothing in clause (i) of sub-section (1A) of section 32 shall be deemed to authorise the allowance for any previous year of any sum in respect of any structure or work in or in relation to a building referred to in that sub-section which is sold, discarded, demolished or destroyed or is surrendered as a result of the determination of the lease or other right of occupancy in respect of the building in that year]

(3) (a) The deduction referred to in section 33 shall not be allowed unless an amount equal to seventy-five per cent of the development rebate to be actually allowed is debited to the profit and loss account of the relevant previous year and credited to a reserve account to be utilised by the assessee during a period of eight years next following for the purposes of the business of the undertaking, other than—

(i) for distribution by way of dividends or profits, or

(ii) for remittance outside India as profits or for the creation of any asset outside India

Provided that this clause shall not apply where the assessee is a company, being a licensee within the meaning of the Electricity (Supply) Act, 1948 (LIV of 1948), or where the ship has been acquired or the machinery or plant has been installed before the 1st day of January, 1958

[6][Provided further that where a ship has been acquired after the 28th day of February, 1966, this clause shall have effect in respect of such ship as if for the words "seventy-five", the word "fifty" had been substituted.]

[7][*Explanation* —For the removal of doubts, it is hereby declared that the deduction referred to in section 33 shall not be denied by reason only that the amount debited to the profit and loss account of the relevant previous year and credited to the reserve account aforesaid exceeds the amount of the profit of such previous year (as arrived at without making the debit aforesaid) in accordance with the profit and loss account]

(b) If any ship, machinery or plant is sold or otherwise transferred by the assessee to any person at any time before the expiry of eight years from the end of the previous year in which it was acquired or installed, any allowance made under section 33 or under the corresponding provisions of the Indian Income-tax Act, 1922 (XI of 1922), in respect of that ship, machinery or plant shall be deemed to have been wrongly made for the purposes of this Act, and the provisions of sub-section (5) of section 155 shall apply accordingly

Provided that this clause shall not apply—

(i) where the ship has been acquired or the machinery or plant has been installed before the 1st day of January, 1958, or

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[4] Inserted by s 4, Direct Taxes (Amendment) Act, 1974, w e f 1-4-1975
[5] Inserted by s 6, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971
[6] Inserted by s 9, F Act, 1966, w e f 1-4-1966
[7] Retrospectively inserted, *ibid*

(ii) where the ship, machinery or plant is sold or otherwise transferred by the assessee to the Government, a local authority, a corporation established by a Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (I of 1956), or

(iii) where the sale or transfer of the ship, machinery or plant is made in connection with the amalgamation or succession, referred to in sub-section (3) or sub-section (4) of section 33

35. Expenditure on scientific research.—(1) In respect of expenditure on scientific research, the following deductions shall be allowed— R 6

(i) any expenditure (not being in the nature of capital expenditure) laid out or expended on scientific research related to the business,

[8][*Explanation* —Where any such expenditure has been laid out or expended before the commencement of the business (not being expenditure laid out or expended before the 1st day of April, 1973) on payment of any salary (as defined in *Explanation 2* below sub-section (5) of section 40A) to an employee engaged in such scientific research or on the purchase of materials used in such scientific research, the aggregate of the expenditure so laid out or expended within the three years immediately preceding the commencement of the business shall, to the extent it is certified by the prescribed authority to have been laid out or expended on such scientific research, be deemed to have been laid out or expended in the previous year in which the business is commenced,]

(ii) any sum paid to a scientific research association which has as its object the undertaking of scientific research or to a university, college or other institution to be used for scientific research

Provided that such association, university, college or institution is for the time being approved for the purposes of this clause by the prescribed authority,

(iii) any sum paid to a university, college or other institution to be used for research in social science or statistical research related to the class of business carried on, being a university, college or institution which is for the time being approved for the purposes of this clause by the prescribed authority,

(iv) in respect of any expenditure of a capital nature on scientific research related to the business carried on by the assessee, such deduction as may be admissible under the provisions of sub-section (2)

(2) For the purposes of clause (iv) of sub-section (1),—

[9][(i) in a case where such capital expenditure is incurred before the 1st day of April, 1967, one-fifth of the capital expenditure incurred in any previous year shall be deducted for that previous year, and the balance of the expenditure shall be deducted in equal instalments for each of the four immediately succeeding previous years,

(i-a) in a case where such capital expenditure is incurred after the 31st day of March, 1967, the whole of such capital expenditure incurred in any previous year shall be deducted for that previous year,]

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[8] Inserted by s 5, Direct Taxes (Amendment) Act, 1974, w e f 1-4-1974
[9] Substituted by s 33 and 3rd Sch , F (No 2) Act, 1967, w e f 1-4-1968

Explanation—Where any capital expenditure has been incurred before the commencement of the business, the aggregate of the expenditure so incurred within the three years immediately preceding the commencement of the business shall be deemed to have been incurred in the previous year in which the business is commenced;

(*ii*) notwithstanding anything contained in clause (*i*), where an asset representing expenditure of a capital nature [10][incurred before the 1st day of April, 1967,] ceases to be used in a previous year for scientific research related to the business and the value of the asset at the time of the cessation, together with the aggregate of deductions already allowed under clause (*i*) falls short of the said expenditure, then—

(*a*) there shall be allowed a deduction for that previous year of an amount equal to such deficiency, and

(*b*) no deduction shall be allowed under that clause for that previous year or for any subsequent previous year,

(*iii*) if the asset mentioned in clause (*ii*) is sold, without having been used for other purposes, in the year of cessation, the sale price shall be taken to be the value of the asset at the time of the cessation, and if the asset is sold, without having been used for other purposes, in a previous year subsequent to the year of cessation, and the sale price falls short of the value of the asset taken into account at the time of cessation, an amount equal to the deficiency shall be allowed as a deduction for the previous year in which the sale took place,

(*iv*) where a deduction is allowed for any previous year under this section in respect of expenditure represented wholly or partly by an asset, no deduction shall be allowed under clauses (*i*), (*ii*), [11][(*iii*) and (*vi*)] of sub-section (1) [12][or under sub-section (1A)] of section 32 for the same previous year in respect of that asset,

(*v*) where the asset [13][mentioned in clause (*ii*)] is used in the business after it ceases to be used for scientific research related to that business, depreciation shall be admissible under clauses (*i*), (*ii*) and (*iii*) of sub-section (1) of section 32

[14][(2A) Where the assessee pays any sum to a scientific research association or university or college or other institution referred to in clause (*ii*) of sub-section (1) to be used for scientific research undertaken under a programme approved in this behalf by the prescribed authority having regard to the social, economic and industrial needs of India, then,—

(*a*) there shall be allowed a deduction of a sum equal to one and one-third times the sum so paid, and

(*b*) no deduction in respect of such sum shall be allowed under clause (*ii*) of sub-section (1) for the same or any other assessment year]

(3) If any question arises under this section as to whether, and if so, to what extent, any activity constitutes or constituted, or any asset is or was being used for, scientific research, the Board shall refer the question to the prescribed authority, whose decision shall be final

10 Inserted by s 33 and 3rd Sch , F (No 2) Act, 1967, w e f 1-4-1968
11 Substituted for "and (*iii*)" by s 5, Direct Taxes (Amendment) Act, 1974, w e f 1-4-1975
12 Inserted by s 7, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971
13 Inserted by s 33 and 3rd Sch , F (No 2) Act, 1967, w e f 1-4-1968
14 Inserted by s 5, Direct Taxes (Amendment) Act, 1974, w e f 1-4-1974

(4) The provisions of sub-section (2) of section 32 shall apply in relation to deductions allowable under clause (*iv*) of sub-section (1) as they apply in relation to deductions allowable in respect of depreciation.

[15][(5) Where, in a scheme of amalgamation, the amalgamating company sells or otherwise transfers to the amalgamated company (being an Indian company) any asset representing expenditure of a capital nature on scientific research,—

(*i*) the amalgamating company shall not be allowed the deduction under clause (*ii*) or clause (*iii*) of sub-section (2), and

(*ii*) the provisions of this section shall, as far as may be, apply to the amalgamated company as they would have applied to the amalgamating company if the latter had not so sold or otherwise transferred the asset]

[16][**35A. Expenditure on acquisition of patent rights or copyrights.**—(1) In respect of any expenditure of a capital nature incurred after the 28th day of February, 1966, on the acquisition of patent rights or copyrights (hereafter, in this section, referred to as rights) used for the purposes of the business, there shall, subject to and in accordance with the provisions of this section, be allowed for each of the relevant previous years, a deduction equal to the appropriate fraction of the amount of such expenditure

Explanation —For the purposes of this section,—

(*i*) "relevant previous years" means the fourteen previous years beginning with the previous year in which such expenditure is incurred or, where such expenditure is incurred before the commencement of the business, the fourteen previous years beginning with the previous year in which the business commenced

Provided that where the rights commenced, that is to say, became effective, in any year prior to the previous year in which expenditure on the acquisition thereof was incurred by the assessee, this clause shall have effect with the substitution for the reference to fourteen years of a reference to fourteen years less the number of complete years which, when the rights are acquired by the assessee, have elapsed since the commencement thereof, and if fourteen years have elapsed as aforesaid, of a reference to one year,

(*ii*) "appropriate fraction" means the fraction the numerator of which is one and the denominator of which is the number of the relevant previous years

(2) Where the rights come to an end without being subsequently revived or where the whole or any part of the rights is sold and the proceeds of the sale (so far as they consist of capital sums) are not less than the cost of acquisition thereof remaining unallowed, no deduction under sub-section (1) shall be allowed in respect of the previous year in which the rights come to an end or, as the case may be, the whole or any part of the rights is sold or in respect of any subsequent previous year

(3) Where the rights either come to an end without being subsequently revived or are sold in their entirety and the proceeds of the sale (so far as they consist of capital sums) are less than the cost of acquisition thereof remaining unallowed, a deduction equal to such cost remaining unallowed or, as the case may be, such cost remaining unallowed as reduced by the proceeds of the sale, shall be allowed in respect of the previous year in which the rights come to an end, or, as the case may be, are sold

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15 Inserted by s 13, F (No 2) Act, 1967, w e f 1-4-1967.
16 Inserted by s 10, F Act, 1966, w e f 1-4-1966

(4) Where the whole or any part of the rights is sold and the proceeds of the sale (so far as they consist of capital sums) exceed the amount of the cost of acquisition thereof remaining unallowed, so much of the excess as does not exceed the difference between the cost of acquisition of the rights and the amount of such cost remaining unallowed shall be chargeable to income-tax as income of the business of the previous year in which the whole or any part of the rights is sold

Explanation—Where the whole or any part of the rights is sold in a previous year in which the business is no longer in existence, the provisions of this sub-section shall apply as if the business is in existence in that previous year.

(5) Where a part of the rights is sold and sub-section (4) does not apply, the amount of the deduction to be allowed under sub-section (1) shall be arrived at by—

(*a*) subtracting the proceeds of the sale (so far as they consist of capital sums) from the amount of the cost of acquisition of the rights remaining unallowed, and

(*b*) dividing the remainder by the number of relevant previous years which have not expired at the beginning of the previous year during which the rights are sold.

[17][(6) Where, in a scheme of amalgamation, the amalgamating company sells or otherwise transfers the rights to the amalgamated company (being an Indian company),—

(*i*) the provisions of sub-sections (3) and (4) shall not apply in the case of the amalgamating company; and

(*ii*) the provisions of this section shall, as far as may be, apply to the amalgamated company as they would have applied to the amalgamating company if the latter had not so sold or otherwise transferred the rights]]

[18][35B. **Export markets development allowance.**—(1) (*a*) Where an assessee, being a domestic company or a person (other than a company) who is resident in India, has incurred after the 29th day of February, 1968, whether directly or in association with any other person, any expenditure (not being in the nature of capital expenditure or personal expenses of the assessee) referred to in clause (*b*), he shall, subject to the provisions of this section, be allowed a deduction of a sum equal to one and one-third times the amount of such expenditure incurred during the previous year

[19][Provided that in respect of the expenditure incurred after the 28th day of February, 1973, by a domestic company, being a company in which the public are substantially interested, the provisions of this clause shall have effect as if for the words "one and one-third times", the words "one and one-half times" had been substituted]

(*b*) The expenditure referred to in clause (*a*) is that incurred wholly and exclusively on—

(*i*) advertisement or publicity outside India in respect of the goods, services or facilities which the assessee deals in or provides in the course of his business,

(*ii*) obtaining information regarding markets outside India for such goods, services or facilities,

(*iii*) distribution, supply or provision outside India of such goods, services or facilities, [20][not being expenditure incurred in India in connection

[17] Inserted by s 14, F (No 2) Act, 1967, w e f 1-4-1967
[18] Inserted by s 5, F Act, 1968, w e f 1-4-1968
[19] Inserted by s 6, Direct Taxes (Amendment) Act, 1974, w e f 1-4-1973
[20] Retrospectively inserted by s 8, F. Act, 1970.

therewith or expenditure (wherever incurred) on the carriage of such goods to their destination outside India or on the insurance of such goods while in transit],

(*iv*) maintenance outside India of a branch, office or agency for the promotion of the sale outside India of such goods, services or facilities,

(*v*) preparation and submission of tenders for the supply or provision outside India of such goods, services or facilities, and activities incidental thereto,

(*vi*) furnishing to a person outside India samples or technical information for the promotion of the sale of such goods, services or facilities,

(*vii*) travelling outside India for the promotion of the sale outside India of such goods, services or facilities, including travelling outward from, and return to, India,

(*viii*) performance of services outside India in connection with, or incidental to, the execution of any contract for the supply outside India of such goods, services or facilities,

(*ix*) such other activities for the promotion of the sale outside India of such goods, services or facilities as may be prescribed

Explanation [21][*1*] —In this section, "domestic company" shall have the meaning assigned to it in clause (*2*) of section 80B

[21][*Explanation 2.*—For the purposes of sub-clause (*iii*) and sub-clause (*viii*) of clause (*b*), expenditure incurred by an assessee engaged in the business of—

(*i*) operation of any ship or other vessel, aircraft or vehicle, or

(*ii*) carriage of, or making arrangements for carriage of, passengers, livestock, mail or goods,

on or in relation to such operation or carriage or arrangements for carriage (including in each case expenditure incurred on the provision of any benefit, amenity or facility to the crew, passengers or livestock) shall not be regarded as expenditure incurred by the assessee on the supply outside India of services or facilities]

(2) Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure referred to in sub-section (1), deduction shall not be allowed in respect of such expenditure under any other provision of this Act for the same or any other assessment year

35C. Agricultural development allowance.—(1) (*a*) Where any company [22][or a co-operative society] is engaged in the manufacture or processing of any article or thing which is made from, or uses in such manufacture or processing as raw material, any product of agriculture, animal husbandry, or dairy or poultry farming, and has incurred, after the 29th day of February, 1968, whether directly or through an association or body which has been approved for the purposes of this section by the prescribed authority, any expenditure in the provision of any goods, services or facilities specified in clause (*b*) to a person (not being a person referred to in clause (*b*) of sub-section (2) of section 40A) who is a cultivator, grower or producer of such product in India, the company [22][or co-operative society] shall, subject to the provisions of this section, be allowed a deduction of a sum equal to one and one-fifth times the amount of such expenditure incurred during the previous year R 6A

[21] Retrospectively inserted by s 5, F Act, 1973
[22] Inserted by s 9, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976

(*b*) The goods, services or facilities referred to in clause (*a*) are the following:—

(*i*) fertilisers, seeds, pesticides, concentrates for cattle and poultry feed, tools or implements, for use by such cultivator, grower or producer,

(*ii*) dissemination of information on, or demonstration of, modern techniques or methods of agriculture, animal husbandry, or dairy or poultry farming, or advice on such techniques or methods,

R 6A (*iii*) such other goods, services or facilities as may be prescribed.

Explanation.—In computing the expenditure with reference to which deduction under this section is to be allowed, the amount, if any, received by the company [23][or co-operative society] in consideration of, or as compensation for, such goods, services or facilities shall be deducted

(2) Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure of the nature specified in sub-section (1), deduction shall not be allowed in respect of such expenditure under any other provision of this Act for the same or any other assessment year]

[24][**35D. Amortisation of certain preliminary expenses.**—(1) Where an assessee, being an Indian company or a person (other than a company) who is resident in India, incurs, after the 31st day of March, 1970, any expenditure specified in sub-section (2),—

(*i*) before the commencement of his business, or

(*ii*) after the commencement of his business, in connection with the extension of his industrial undertaking or in connection with his setting up a new industrial unit,

the assessee shall, in accordance with and subject to the provisions of this section, be allowed a deduction of an amount equal to one-tenth of such expenditure for each of the ten successive previous years beginning with the previous year in which the business commences or, as the case may be, the previous year in which the extension of the industrial undertaking is completed or the new industrial unit commences production or operation

(2) The expenditure referred to in sub-section (1) shall be the expenditure specified in any one or more of the following clauses, namely —

(*a*) expenditure in connection with—

(*i*) preparation of feasibility report,

(*ii*) preparation of project report,

(*iii*) conducting market survey or any other survey necessary for the business of the assessee;

(*iv*) engineering services relating to the business of the assessee

Provided that the work in connection with the preparation of the feasibility report or the project report or the conducting of market survey or of any other survey or the engineering services referred to in this clause is carried out by the assessee himself or by a concern which is for the time being approved in this behalf by the Board,

(*b*) legal charges for drafting any agreement between the assessee and any other person for any purpose relating to the setting up or conduct of the business of the assessee,

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[23] Inserted by s 9, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976
[24] Inserted by s 8, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

(*c*) where the assessee is a company, also expenditure—

(*i*) by way of legal charges for drafting the Memorandum and Articles of Association of the company,

(*ii*) on printing of the Memorandum and Articles of Association,

(*iii*) by way of fees for registering the company under the provisions of the Companies Act, 1956 (I of 1956),

(*iv*) in connection with the issue, for public subscription, of shares in or debentures of the company, being underwriting commission, brokerage and charges for drafting, typing, printing and advertisement of the prospectus,

(*d*) such other items of expenditure (not being expenditure eligible for any allowance or deduction under any other provision of this Act) as may be prescribed

(3) Where the aggregate amount of the expenditure referred to in sub-section (2) exceeds an amount calculated at two and one-half per cent —

(*a*) of the cost of the project, or

(*b*) where the assessee is an Indian company, at the *option* of the company, of the capital employed in the business of the company,

the excess shall be ignored for the purpose of computing the deduction allowable under sub-section (1)

Explanation —In this sub-section—

(*a*) "cost of the project" means—

(*i*) in a case referred to in clause (*i*) of sub-section (1), the actual cost of the fixed assets, being land, buildings, leaseholds, plant, machinery, furniture, fittings and railway sidings (including expenditure on development of land and buildings), which are shown in the books of the assessee as on the last day of the previous year in which the business of the assessee commences,

(*ii*) in a case referred to in clause (*ii*) of sub-section (1), the actual cost of the fixed assets, being land, buildings, leaseholds, plant, machinery, furniture, fittings and railway sidings (including expenditure on development of land and buildings), which are shown in the books of the assessee as on the last day of the previous year in which the extension of the industrial undertaking is completed or, as the case may be, the new industrial unit commences production or operation, in so far as such fixed assets have been acquired or developed in connection with the extension of the industrial undertaking or the setting up of the new industrial unit of the assessee,

(*b*) "capital employed in the business of the company" means—

(*i*) in a case referred to in clause (*i*) of sub-section (1), the aggregate of the issued share capital, debentures and long-term borrowings as on the last day of the previous year in which the business of the company commences,

(*ii*) in a case referred to in clause (*ii*) of sub-section (1), the aggregate of the issued share capital, debentures and long-term borrowings as on the last day of the previous year in which the extension of the industrial

undertaking is completed or, as the case may be, the new industrial unit commences production or operation, in so far as such capital, debentures and long-term borrowings have been issued or obtained in connection with the extension of the industrial undertaking or the setting up of the new industrial unit of the company,

(*c*) "long-term borrowings" means—

(*i*) any moneys borrowed by the company from Government or the Industrial Finance Corporation of India or the Industrial Credit and Investment Corporation of India or any other financial institution which is for the time being approved by the Central Government for the purposes of clause (*viii*) of sub-section (1) of section 36 or any banking institution (not being a financial institution referred to above), or

(*ii*) any moneys borrowed or debt incurred by it in a foreign country in respect of the purchase outside India of capital plant and machinery,

where the terms under which such moneys are borrowed or the debt is incurred provide for the repayment thereof during a period of not less than seven years

R 6AA (4) Where the assessee is a person other than a company or a co-operative society, no deduction shall be admissible under sub-section (1) unless the accounts of the assessee for the year or years in which the expenditure specified in sub-section (2) is incurred have been audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288, and the assessee furnishes, along with his return of income for the first year in which the deduction under this section is claimed, the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed

(5) Where the undertaking of an Indian company which is entitled to the deduction under sub-section (1) is transferred, before the expiry of the period of ten years specified in sub-section (1), to another Indian company in a scheme of amalgamation,—

(*i*) no deduction shall be admissible under sub-section (1) in the case of the amalgamating company for the previous year in which the amalgamation takes place, and

(*ii*) the provisions of this section shall, as far as may be, apply to the amalgamated company as they would have applied to the amalgamating company if the amalgamation had not taken place.

(6) Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure specified in sub-section (2), the expenditure in respect of which deduction is so allowed shall not qualify for deduction under any other provision of this Act for the same or any other assessment year

35E. Deduction for expenditure on prospecting, etc., for certain minerals.—(1) Where an assessee, being an Indian company or a person (other than a company) who is resident in India, is engaged in any operations relating to prospecting for, or extraction or production of, any mineral and incurs, after the 31st day of March, 1970, any expenditure specified in sub-section (2), the assessee shall, in accordance with and subject to the provisions of this section, be allowed for each one of the relevant previous years a deduction of an amount equal to one-tenth of the amount of such expenditure

(2) The expenditure referred to in sub-section (1) is that incurred by the assessee after the date specified in that sub-section at any time during the year of commercial

production and any one or more of the four years immediately preceding that year, wholly and exclusively on any operations relating to prospecting for any mineral or group of associated minerals specified in Part A or Part B, respectively, of the Seventh Schedule or on the development of a mine or other natural deposit of any such mineral or group of associated minerals

Provided that there shall be excluded from such expenditure any portion thereof which is met directly or indirectly by any other person or authority and any sale, salvage, compensation or insurance moneys realised by the assessee in respect of any property or rights brought into existence as a result of the expenditure

(3) Any expenditure—

(*i*) on the acquisition of the site of the source of any mineral or group of associated minerals referred to in sub-section (2) or of any rights in or over such site,

(*ii*) on the acquisition of the deposits of such mineral or group of associated minerals or of any rights in or over such deposits, or

(*iii*) of a capital nature in respect of any building, machinery, plant or furniture for which allowance by way of depreciation is admissible under section 32,

shall not be deemed to be expenditure incurred by the assessee for any of the purposes specified in sub-section (2)

(4) The deduction to be allowed under sub-section (1) for any relevant previous year shall be—

(*a*) an amount equal to one-tenth of the expenditure specified in sub-section (2) (such one-tenth being hereafter in this sub-section referred to as the instalment), or

(*b*) such amount as is sufficient to reduce to nil the income (as computed before making the deduction under this section) of that previous year arising from the commercial exploitation (whether or not such commercial exploitation is as a result of the operations or development referred to in sub-section (2)) of any mine or other natural deposit of the mineral or any one or more of the minerals in a group of associated minerals as aforesaid in respect of which the expenditure was incurred,

whichever amount is less

Provided that the amount of the instalment relating to any relevant previous year, to the extent to which it remains unallowed, shall be carried forward and added to the instalment relating to the previous year next following and deemed to be part of that instalment, and so on, for succeeding previous years, so, however, that no part of any instalment shall be carried forward beyond the tenth previous year as reckoned from the year of commercial production

(5) For the purposes of this section,—

(*a*) "operation relating to prospecting" means any operation undertaken for the purpose of exploring, locating or proving deposits of any mineral, and includes any such operation which proves to be infructuous or abortive,

(*b*) "year of commercial production" means the previous year in which as a result of any operation relating to prospecting, commercial production of any mineral or any one or more of the minerals in a group of associated minerals specified in Part A or Part B, respectively, of the Seventh Schedule, commences,

(*c*) "relevant previous years" means the ten previous years beginning with the year of commercial production

(6) Where the assessee is a person other than a company or a co-operative society, no deduction shall be admissible under sub-section (1) unless the accounts of the assessee for the year or years in which the expenditure specified in sub-section (2) is incurred have been audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288, and the assessee furnishes, along with his return of income for the first year in which the deduction under this section is claimed, the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed

(7) Where the undertaking of an Indian company which is entitled to the deduction under sub-section (1) is transferred, before the expiry of the period of ten years specified in sub-section (1), to another Indian company in a scheme of amalgamation—

(*i*) no deduction shall be admissible under sub-section (1) in the case of the amalgamating company for the previous year in which the amalgamation takes place, and

(*ii*) the provisions of this section shall, as far as may be, apply to the amalgamated company as they would have applied to the amalgamating company if the amalgamation had not taken place

(8) Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure specified in sub-section (2), the expenditure in respect of which deduction is so allowed shall not qualify for deduction under any other provision of this Act for the same or any other assessment year]

36. Other deductions.—(1) The deductions provided for in the following clauses shall be allowed in respect of the matters dealt with therein, in computing the income referred to in section 28—

(*i*) the amount of any premium paid in respect of insurance against risk of damage or destruction of stocks or stores used for the purposes of the business or profession,

(*ii*) any sum paid to an employee as bonus or commission for services rendered, where such sum would not have been payable to him as profits or dividend if it had not been paid as bonus or commission

[25][Provided that the deduction in respect of bonus paid to an employee employed in a factory or other establishment to which the provisions of the Payment of Bonus Act, 1965 (XXI of 1965), apply shall not exceed the amount of bonus payable under that Act]

Provided [25][further] that the amount of the bonus [25][(not being bonus referred to in the first proviso)] or commission is reasonable with reference to—

(*a*) the pay of the employee and the conditions of his service,

(*b*) the profits of the business or profession for the previous year in question, and

(*c*) the general practice in similar business or profession,

(*iii*) the amount of the interest paid in respect of capital borrowed for the purposes of the business or profession,

Explanation —Recurring subscriptions paid periodically by shareholders or subscribers in Mutual Benefit Societies which fulfil such

[25] Inserted by s 29, Payment of Bonus (Amendment) Act, 1976, w e f 25-9-1975

conditions as may be prescribed, shall be deemed to be capital borrowed within the meaning of this clause,

(iv) any sum paid by the assessee as an employer by way of contribution towards a recognised provident fund or an approved superannuation fund, subject to such limits as may be prescribed for the purpose of recognising the provident fund or approving the superannuation fund, as the case may be, and subject to such conditions as the Board may think fit to specify in cases where the contributions are not in the nature of annual contributions of fixed amounts or annual contributions fixed on some definite basis by reference to the income chargeable under the head "Salaries" or to the contributions or to the number of members of the fund, **Rr 75, 87, 88**

(v) any sum paid by the assessee as an employer by way of contribution towards an approved gratuity fund created by him for the exclusive benefit of his employees under an irrevocable trust, **Rr 103, 104**

(vi) in respect of animals which have been used for the purposes of the business or profession otherwise than as stock-in-trade and have died or become permanently useless for such purposes, the difference between the actual cost to the assessee of the animals and the amount, if any, realised in respect of the carcasses or animals,

(vii) subject to the provisions of sub-section (2), the amount of any debt, or part thereof, which is established to have become a bad debt in the previous year,

(viii) in respect of any special reserve created by a financial corporation which is engaged in providing long-term finance for industrial [1][or agricultural] development in India, [2][an amount not exceeding—

[3][(a) in the case of a Financial Corporation or a Joint Financial Corporation established under the State Financial Corporations Act, 1951 (LXIII of 1951), or an institution deemed under section 46 of that Act to be a Financial Corporation established by the State Government for the State within the meaning of that Act, forty per cent,

(b) in the case of any other financial corporation,—

(i) where the paid-up share capital of the corporation does not exceed three crores of rupees, twenty-five per cent,

(ii) where the paid-up share capital of the corporation exceeds three crores of rupees, ten per cent,]

of the total income [4][(computed before making any deduction under Chapter VI-A)] carried to such reserve account]

Provided that the corporation is for the time being approved by the Central Government for the purposes of this clause

Provided further that where the aggregate of the amounts carried to such reserve account from time to time exceeds the paid-up share

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1 Inserted by s 8, F (No 2) Act, 1971, w e f 1-4-1972
2 Substituted for "an amount not exceeding ten per cent of the total income carried to such reserve account" by s 11, F Act, 1966, w e f 1-4-1966
3 Substituted by s 5, F Act, 1974, w e f 1-4-1975
4 Inserted by s 33 and 3rd Sch, F (No 2) Act, 1967, w e f 1-4-1968

capital (excluding the amounts capitalised from reserves) of the corporation, no allowance under this clause shall be made in respect of such excess,

[5]* * * * *

[6][(ix) any expenditure bona fide incurred by a company for the purpose of promoting family planning amongst its employees

Provided that where such expenditure or any part thereof is of a capital nature, one-fifth of such expenditure shall be deducted for the previous year in which it was incurred, and the balance thereof shall be deducted in equal instalments for each of the four immediately succeeding previous years

Provided further that the provisions of sub-section (2) of section 32 and of sub-section (2) of section 72 shall apply in relation to deductions allowable under this clause as they apply in relation to deductions allowable in respect of depreciation.

Provided further that the provisions of clauses (ii), (iii), (iv) and (v) of sub-section (2) [7][and sub-section (5)] of section 35, of sub-section (3) of section 41 and of *Explanation 1* to clause (1) of section 43 shall, so far as may be, apply in relation to an asset representing expenditure of a capital nature for the purposes of promoting family planning as they apply in relation to an asset representing expenditure of a capital nature on scientific research]

(2) In making any deduction for a bad debt or part thereof, the following provisions shall apply —

(i) no such deduction shall be allowed unless such debt or part thereof—

(a) has been taken into account in computing the income of the assessee of that previous year or of an earlier previous year, or represents money lent in the ordinary course of the business of banking or money-lending which is carried on by the assessee, and

(b) has been written off as irrecoverable in the accounts of the assessee for that previous year,

(ii) if the amount ultimately recovered on any such debt or part of debt is less than the difference between the debt or part and the amount so deducted, the deficiency shall be deductible in the previous year in which the ultimate recovery is made,

(iii) any such debt or part of debt may be deducted if it has already been written off as irrecoverable in the accounts of an earlier previous year, but the Income-tax Officer had not allowed it to be deducted on the ground that it had not been established to have become a bad debt in that year,

(iv) where any such debt or part of debt is written off as irrecoverable in the accounts of the previous year and the Income-tax Officer is satisfied that such debt or part became a bad debt in any earlier previous year not falling beyond a period of four previous years immediately preceding the

[5] The Explanation inserted by s 9, F Act, 1970, w e f 1-4-1966, and omitted by s 5, F Act, 1974, w e f 1-4-1975
[6] Inserted by s 11, F Act, 1965, w e f 1-4-1965.
[7] Inserted by s 15, F (No 2) Act, 1967, w e f 1-4-1967

previous year in which such debt or part is written off, the provisions of sub-section (6) of section 155 shall apply

37. General.—(1) Any expenditure (not being expenditure of the nature described in sections 30 to 36 [8][and section 80VV] and not being in the nature of capital expenditure or personal expenses of the assessee), laid out or expended wholly and exclusively for the purposes of the business or profession shall be allowed in computing the income chargeable under the head "Profits and gains of business or profession"

(2) Notwithstanding anything contained in sub-section (1), no expenditure in the nature of entertainment expenditure shall be allowed in the case of a company, which exceeds the aggregate amount computed as hereunder —

(*i*) on the first Rs 10,00,000 of the profits and gains of the business (computed before making any allowance under section 33 [9][or section 33A] or in respect of entertainment expenditure)	at the rate of 1% or Rs 5,000, whichever is higher,
(*ii*) on the next Rs 40,00,000 of the profits and gains of the business (computed in the manner aforesaid) .	at the rate of [10][½%],
(*iii*) on the next Rs 1,20,00,000 of the profits and gains of the business (computed in the manner aforesaid)	at the rate of [11][¼%],
(*iv*) on the balance of the profits and gains of the business (computed in the manner aforesaid)	nil

[12][(2A) Notwithstanding anything contained in sub-section (1) or sub-section (2), no allowance shall be made in respect of so much of the expenditure in the nature of entertainment expenditure incurred by any assessee during any previous year which expires after the 30th day of September, 1967, as is in excess of the aggregate amount computed as hereunder —

(*i*) on the first Rs 10,00,000 of the profits and gains of the business or profession (computed before making any allowance under section 33 or section 33A or in respect of entertainment expenditure)	at the rate of ½ per cent or Rs 5,000, whichever is higher,
(*ii*) on the next Rs 40,00,000 of the profits and gains of the business or profession (computed in the manner aforesaid)	at the rate of ¼ per cent ,
(*iii*) on the next Rs 1,20,00,000 of the profits and gains of the business or profession (computed in the manner aforesaid)	at the rate of ⅛ per cent ,

8 Inserted by s 10, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976
9 Inserted by s 12, F Act, 1965, w e f 1-4-1965
10 Substituted for "¾%" by s 4, F (No 2) Act, 1962, w e f 1-4-1962
11 Substituted for "½%", *ibid*, w e f 1-4-1962
12 Inserted by s 4, Taxation Laws (Amendment) Act, 1967, w e f 1-10-1967

(*iv*) on the balance of the profits and gains of the business or profession (computed in the manner aforesaid) nil·

Provided that where the previous year of any assessee falls partly before and partly after the 30th day of September, 1967, the allowance in respect of such expenditure incurred during the previous year shall not exceed—

(*a*) in the case of a company—

(*i*) in respect of such expenditure incurred before the 1st day of October, 1967, the sum which bears to the aggregate amount computed at the rate or rates specified in sub-section (2), the same proportion as the number of days comprised in the period commencing on the first day of such previous year and ending with the 30th day of September, 1967, bears to the total number of days in the previous year,

(*ii*) in respect of such expenditure incurred after the 30th day of September, 1967, the sum which bears to the aggregate amount computed at the rate or rates specified in this sub-section, the same proportion as the number of days comprised in the period commencing on the 1st day of October, 1967, and ending with the last day of the previous year bears to the total number of days in the previous year,

(*b*) in any other case—

(*i*) in respect of such expenditure incurred before the 1st day of October, 1967, the amount admissible under sub-section (1);

(*ii*) in respect of such expenditure incurred after the 30th day of September, 1967, the sum which bears to the aggregate amount computed at the rate or rates specified in this sub-section, the same proportion as the number of days comprised in the period commencing on the 1st day of October, 1967, and ending with the last day of the previous year bears to the total number of days in the previous year]

[13][*Explanation* —For the purposes of this sub-section [14][and sub-section (2B)], "entertainment expenditure" includes—

(*i*) the amount of any allowance in the nature of entertainment allowance paid by the assessee to any employee or other person after the 29th day of February, 1968,

(*ii*) the amount of any expenditure in the nature of entertainment expenditure (not being expenditure incurred out of an allowance of the nature referred to in clause (*i*)) incurred after the 29th day of February, 1968, for the purposes of the business or profession of the assessee by any employee or other person]

[15][(2B) Notwithstanding anything contained in this section, no allowance shall be made in respect of expenditure in the nature of entertainment expenditure incurred within India by any assessee after the 28th day of February, 1970]

[16][(3) Notwithstanding anything contained in sub-section (1), any expenditure incurred by an assessee after the 31st day of March, 1964, on advertisement or on maintenance of any residential accommodation including any accommodation in the nature of a guest house or in connection with travelling by an employee or any other

[13] Inserted by s 6, F Act, 1968, w e f 1-4-1968
[14] Inserted by s 10, F Act, 1970, w e f 1-4-1970
[15] Inserted, *ibid*, w e f 1-4-1970
[16] Inserted by s 9, F Act, 1964, w e f 1-4-1964

person (including hotel expenses or allowances paid in connection with such travelling) shall be allowed only to the extent, and subject to such conditions, if any, as may be prescribed]

[17][(4) Notwithstanding anything contained in sub-section (1) or sub-section (3),—

(*i*) no allowance shall be made in respect of any expenditure incurred by the assessee after the 28th day of February, 1970, on the maintenance of any residential accommodation in the nature of a guest house (such residential accommodation being hereafter in this sub-section referred to as "guest house"),

(*ii*) in relation to the assessment year commencing on the 1st day of April, 1971, or any subsequent assessment year, no allowance shall be made in respect of depreciation of any building used as a guest house or depreciation of any assets in a guest house

Provided that the aggregate of the expenditure referred to in clause (*i*) and the amount of any depreciation referred to in clause (*ii*) shall, for the purposes of this sub-section, be reduced by the amount, if any, received from persons using the guest house

Provided further that nothing in this sub-section shall apply in relation to any guest house maintained as a holiday home if such guest house—

(*a*) is maintained by an assessee who has throughout the previous year employed not less than one hundred whole-time employees in a business or profession carried on by him, and

(*b*) is intended for the exclusive use of such employees while on leave

Explanation —For the purposes of this sub-section,—

(*i*) residential accommodation in the nature of a guest house shall include accommodation hired or reserved by the assessee in a hotel for a period exceeding one hundred and eighty-two days during the previous year, and

(*ii*) the expenditure incurred on the maintenance of a guest house shall, in a case where the residential accommodation has been hired by the assessee, include also the rent paid in respect of such accommodation]

38. Building, etc., partly used for business, etc., or not exclusively so used.— (1) Where a part of any premises is used as dwelling house by the assessee,—

(*a*) the deduction under sub-clause (*i*) of clause (*a*) of section 30, in the case of rent, shall be such amount as the Income-tax Officer may determine having regard to the proportionate annual value of the part used for the purpose of the business or profession, and in the case of any sum paid for repairs, such sum as is proportionate to the part of the premises used for the purpose of the business or profession,

(*b*) the deduction under clause (*b*) of section 30 shall be such sum as the Income-tax Officer may determine having regard to the part so used

(2) Where any building, machinery, plant or furniture is not exclusively used for the purposes of the business or profession, the deductions under sub-clause (*ii*) of clause (*a*) and clause (*c*) of section 30, clauses (*i*) and (*ii*) of section 31 and clauses (*i*), (*ii*) and (*iii*) of sub-section (1) [18][and sub-section (1A)] of section 32 shall be restricted

[17] Inserted by s 10, F Act, 1970, w e f 1-4-1970
[18] Inserted by s 9, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

to a fair proportionate part thereof which the Income-tax Officer may determine, having regard to the user of such building, machinery, plant or furniture for the purposes of the business or profession

39. **Managing agency commission.**—Where a managing agent of a company is liable under an agreement in writing made for adequate consideration to share managing agency commission with a third party or third parties, the said agent and the said party or parties shall file a declaration showing the proportion in which such commission is shared between them under the agreement, and on proof to the satisfaction of the Income-tax Officer of the facts contained in such declaration, such agent and each such party shall be chargeable only on the share to which such agent or party is entitled under the agreement

40. **Amounts not deductible.**—Notwithstanding anything to the contrary in sections 30 to 39, the following amounts shall not be deducted in computing the income chargeable under the head "Profits and gains of business or profession",

(*a*) in the case of any assessee—

(*i*) any interest chargeable under this Act which is payable outside India (not being interest on a loan issued for public subscription before the 1st day of April, 1938), on which tax has not been paid or deducted under Chapter XVII-B and in respect of which there is no person in India who may be treated as an agent under section 163,

(*ii*) any sum paid on account of any rate or tax levied on the profits or gains of any business or profession or assessed at a proportion of, or otherwise on the basis of, any such profits or gains;

[19][(*ii-a*) any sum paid on account of wealth-tax,

Explanation—For the purposes of this sub-clause, "wealth-tax" means wealth-tax chargeable under the Wealth-tax Act, 1957 (XXVII of 1957), or any tax of a similar character chargeable under any law in force in any country outside India or any tax chargeable under such law with reference to the value of the assets of, or the capital employed in, a business or profession carried on by the assessee, whether or not the debts of the business or profession are allowed as a deduction in computing the amount with reference to which such tax is charged, but does not include any tax chargeable with reference to the value of any particular asset of the business or profession,]

(*iii*) any payment which is chargeable under the head "Salaries", if it is payable outside India and if the tax has not been paid thereon nor deducted therefrom under Chapter XVII-B,

(*iv*) any payment to a provident or other fund established for the benefit of employees of the assessee, unless the assessee has made effective

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[19] Retrospectively inserted by s 2, I T (Amendment) Act, 1972, subject to savings prescribed by s 5 of the Amendment Act regarding certain cases decided by the Supreme Court

"*Wealth-tax not deductible in computing the total income for certain assessment years*—Nothing contained in the Indian Income-tax Act, 1922 (XI of 1922), shall be deemed to authorise, or shall be deemed ever to have authorised, any deduction in the computation of the income of any assessee chargeable under the head 'Profits and gains of business, profession or vocation' or 'Income from other sources' for the assessment year commencing on the 1st day of April, 1957, or any subsequent assessment year, of any sum paid on account of wealth-tax.

Explanation—For the purposes of this section, 'wealth-tax' shall have the same meaning as is assigned to it in the *Explanation* to sub-clause (*ii-a*) of clause (*a*) of section 40 of the principal Act"
—*S 4, I T (Amendment) Act, 1972*

arrangements to secure that tax shall be deducted at source from any payments made from the fund which are chargeable to tax under the head "Salaries",

[20](v) * * * * *

(b) in the case of any firm, any payment of interest, salary, bonus, commission or remuneration made by the firm to any partner of the firm,

(c) in the case of any company—

(i) any expenditure which results directly or indirectly in the provision of any remuneration or benefit or amenity to a director or to a person who has a substantial interest in the company or to a relative of the director or of such person, as the case may be,

(ii) any expenditure or allowance in respect of any assets of the company used by any person referred to in sub-clause (i) either wholly or partly for his own purposes or benefit,

if in the opinion of the Income-tax Officer any such expenditure or allowance as is mentioned in sub-clauses (i) and (ii) is excessive or unreasonable having regard to the legitimate business needs of the company and the benefit derived by or accruing to it therefrom, [21][so, however, that the deduction in respect of the aggregate of such expenditure and allowance in respect of any one person referred to in sub-clause (i) shall, in no case, exceed—

(A) where such expenditure or allowance relates to a period exceeding eleven months comprised in the previous year, the amount of seventy-two thousand rupees,

(B) where such expenditure or allowance relates to a period not exceeding eleven months comprised in the previous year, an amount calculated at the rate of six thousand rupees for each month or part thereof comprised in that period

Provided that in a case where such person is also an employee of the company for any period comprised in the previous year, expenditure of the nature referred to in clauses (i), (ii), (iii) and (iv) of the second proviso to clause (a) of sub-section (5) of section 40A shall not be taken into account for the purposes of sub-clause (A) or sub-clause (B), as the case may be,]

[22](iii) * * * *

Explanation —The provisions of this clause shall apply notwithstanding that any amount not to be allowed under this clause is included in the total income of any person referred to in sub-clause (i) [23]* *,

[24]* * * * *

(d) in the case of a banking company, the amounts which have been allowed as a deduction in computing its income chargeable to income-tax under

[20] Inserted by s 30 and 3rd Sch , F Act, 1968, w e f 1-4-1969, and omitted by s 9, F (No 2) Act, 1971, w e f 1-4-1972
[21] Inserted by s 9, F (No 2) Act, 1971, w e f 1-4-1972
[22] Inserted by s 6, F Act, 1963, w e f 1-4-1963, substituted by s 10, F Act, 1964, w e f 1-4-1964, and omitted by s 30 and 3rd Sch , F Act, 1968, w e f 1-4-1969
[23] "Or in sub-clause (iii)" inserted by s 6, F Act, 1963, w e f 1-4-1963, and omitted by s 30 and 3rd Sch , F Act, 1968, w e f 1-4-1969
[24] Expln 2 inserted by s 10, F Act, 1964, w e f 1-4-1964, and omitted by s 30 and 3rd Sch , F Act, 1968, w e f 1-4-1969

the head "Interest on securities" under the provisions of sub-section (1) of section 20

[25][40A. **Expenses or payments not deductible in certain circumstances.**—(1) The provisions of this section shall have effect notwithstanding anything to the contrary contained in any other provision of this Act relating to the computation of income under the head "Profits and gains of business or profession"

(2) (*a*) Where the assessee incurs any expenditure in respect of which payment has been or is to be made to any person referred to in clause (*b*) of this sub-section, and the Income-tax Officer is of opinion that such expenditure is excessive or unreasonable having regard to the fair market value of the goods, services or facilities for which the payment is made or the legitimate needs of the business or profession of the assessee or the benefit derived by or accruing to him therefrom, so much of the expenditure as is so considered by him to be excessive or unreasonable shall not be allowed as a deduction:

Provided that the provisions of this [1][sub-section] shall not apply in the case of an assessee being a company in respect of any expenditure to which sub-clause (*i*) of clause (*c*) of section 40 applies

(*b*) The persons referred to in clause (*a*) are the following, namely —

(*i*) where the assessee is an individual	any relative of the assessee;
(*ii*) where the assessee is a company, firm, association of persons or Hindu undivided family	any director of the company, partner of the firm, or member of the association or family, or any relative of such director, partner or member;

(*iii*) any individual who has a substantial interest in the business or profession of the assessee, or any relative of such individual,

(*iv*) a company, firm, association of persons or Hindu undivided family having a substantial interest in the business or profession of the assessee or any director, partner or member of such company, firm, association or family, or any relative of such director, partner or member;

(*v*) a company, firm, association of persons or Hindu undivided family of which a director, partner or member, as the case may be, has a substantial interest in the business or profession of the assessee, or any director, partner or member of such company, firm, association or family or any relative of such director, partner or member,

(*vi*) any person who carries on a business or profession,—

(*A*) where the assessee being an individual, or any relative of such assessee, has a substantial interest in the business or profession of that person, or

(*B*) where the assessee being a company, firm, association of persons or Hindu undivided family, or any director of such company, partner of such firm or member of the association or family, or any relative of such director, partner or member, has a substantial interest in the business or profession of that person

Explanation —For the purposes of this sub-section, a person shall be deemed to have a substantial interest in a business or profession, if,—

(*a*) in a case where the business or profession is carried on by a company, such person is, at any time during the previous year, the beneficial owner of shares

[25] Inserted by s 7, F Act, 1968, w e f 1-4-1968
[1] Substituted for "section" by s 10, F (No 2) Act, 1971, w e f 1-4-1972

(not being shares entitled to a fixed rate of dividend whether with or without a right to participate in profits) carrying not less than twenty per cent of the voting power, and

(*b*) in any other case, such person is, at any time during the previous year, beneficially entitled to not less than twenty per cent of the profits of such business or profession.

(3) Where the assessee incurs any expenditure in respect of which payment is made, after such date (not being later than the 31st day of March, 1969) as may be specified in this behalf by the Central Government by notification in the Official Gazette, in a sum exceeding two thousand five hundred rupees otherwise than by a crossed cheque drawn on a bank or by a crossed bank draft, such expenditure shall not be allowed as a deduction·

Provided that where an allowance has been made in the assessment for any year not being an assessment year commencing prior to the 1st day of April, 1969, in respect of any liability incurred by the assessee for any expenditure and subsequently during any previous year the assessee makes any payment in respect thereof in a sum exceeding two thousand five hundred rupees otherwise than by a crossed cheque drawn on a bank or by a crossed bank draft, the allowance originally made shall be deemed to have been wrongly made and the Income-tax Officer may recompute the total income of the assessee for the previous year in which such liability was incurred and make the necessary amendment, and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the assessment year next following the previous year in which the payment was so made

Provided further that no disallowance under this sub-section shall be made where any payment in a sum exceeding two thousand five hundred rupees is made otherwise than by a crossed cheque drawn on a bank or by a crossed bank draft, in such cases and under such circumstances as may be prescribed, having regard to the nature and extent of banking facilities available, considerations of business expediency and other relevant factors] R 6DD

[2][(4) Notwithstanding anything contained in any other law for the time being in force or in any contract, where any payment in respect of any expenditure has to be made by a crossed cheque drawn on a bank or by a crossed bank draft in order that such expenditure may not be disallowed as a deduction under sub-section (3), then the payment may be made by such cheque or draft, and where the payment is so made or tendered, no person shall be allowed to raise, in any suit or other proceeding, a plea based on the ground that the payment was not made or tendered in cash or in any other manner]

[3][(5) (*a*) Where the assessee—

(*i*) incurs any expenditure which results directly or indirectly in the payment of any salary to an employee or a former employee, or

(*ii*) incurs any expenditure which results directly or indirectly in the provision of any perquisite (whether convertible into money or not) to an employee or incurs directly or indirectly any expenditure or is entitled to any allowance in respect of any assets of the assessee used by an employee either wholly or partly for his own purposes or benefit,

[2] Inserted by s 5, F Act, 1969, w e f 1-4-1969
[3] Inserted by s 10, F (No 2) Act, 1971, w e f 1-4-1972

then, subject to the provisions of clause (*b*), so much of such expenditure or allowance as is in excess of the limit specified in respect thereof in clause (*c*) shall not be allowed as a deduction

Provided that where the assessee is a company, so much of the aggregate of—

(*a*) the expenditure and allowance referred to in sub-clauses (*i*) and (*ii*) of this clause, and

(*b*) the expenditure and allowance referred to in sub-clauses (*i*) and (*ii*) of clause (*c*) of section 40,

in respect of an employee or a former employee, being a director or a person who has a substantial interest in the company or a relative of the director or of such person, as is in excess of the sum of seventy-two thousand rupees, *shall in no case be allowed* as a deduction

Provided further that in computing the expenditure referred to in sub-clause (*i*) or the expenditure or allowance referred to in sub-clause (*ii*) of this clause or the aggregate referred to in the foregoing proviso, the following shall not be taken into account, namely.—

(*i*) the value of any travel concession or assistance referred to in clause (*5*) of section 10,

(*ii*) passage moneys or the value of any free or concessional passage referred to in sub-clause (*i*) of clause (*6*) of section 10,

(*iii*) any payment referred to in clause (*iv*) or clause (*v*) of sub-section (1) of section 36,

(*iv*) any expenditure referred to in clause (*ix*) of sub-section (1) of section 36.

(*b*) Nothing in clause (*a*) shall apply to any expenditure or allowance in relation to—

(*i*) any employee in respect of any period of his employment outside India,

(*ii*) any employee being an individual referred to in sub-clause (*vii*) or sub-clause (*vii-a*) of clause (*6*) of section 10 in respect of any period during which he is entitled to the exemption under sub-clause (*vii*) or, as the case may be, sub-clause (*vii-a*) aforesaid,

(*iii*) any employee whose income chargeable under the head "Salaries" is seven thousand and five hundred rupees or less

(*c*) The limits referred to in clause (*a*) are the following, namely —

(*i*) in respect of the expenditure referred to in sub-clause (*i*) of clause (*a*), in the case of an employee, an amount calculated at the rate of five thousand rupees for each month or part thereof comprised in the period of his employment in India during the previous year, and in the case of a former employee, being an individual who ceases or ceased to be the employee of the assessee during the previous year or any earlier previous year, sixty thousand rupees

[4][Provided that where the expenditure is incurred on payment of any salary to an employee or a former employee engaged in scientific research during any one or more of the three years immediately preceding the commencement of the business and such expenditure is deemed under the *Explanation* to clause (*i*) of sub-section (1) of section 35 to have been laid out or expended in the previous year in which the business is

[4] Inserted by s 7, Direct Taxes (Amendment) Act, 1974, w e f 1-4-1974

commenced, the limit referred to in this sub-clause shall, in relation to the previous year in which the business is commenced, be an amount calculated at the rate of five thousand rupees for each month or part thereof comprised in the period of his employment in India during the previous year in which such business is commenced and in the period of his employment in India during which he was engaged in scientific research during the three years immediately preceding that previous year,]

(ii) in respect of the aggregate of the expenditure and the allowance referred to in sub-clause (ii) of clause (a), one-fifth of the amount of the salary payable to the employee or an amount calculated at the rate of one thousand rupees for each month or part thereof comprised in the period of employment in India of the employee during the previous year, whichever is less

Explanation 1 —The provisions of this sub-section shall apply notwithstanding that any amount not to be allowed under this sub-section is included in the total income of the employee or, as the case may be, the former employee

Explanation 2 —In this sub-section,—

(a) "salary" has the meaning assigned to it in clause (*1*) read with clause (*3*) of section 17 subject to the following modifications, namely —

(*1*) in the said clause (*1*), the word "perquisites" occurring in sub-clause (*iv*) and the whole of sub-clause (*vii*) shall be omitted,

(*2*) in the said clause (*3*), the references to "assessee" shall be construed as references to "employee or former employee" and the references to "his employer or former employer" and "an employer or a former employer" shall be construed as references to "the assessee",

(*b*) "perquisite" means—

(*i*) rent-free accommodation provided to the employee by the assessee,

(*ii*) any concession in the matter of rent respecting any accommodation provided to the employee by the assessee,

(*iii*) any benefit or amenity granted or provided free of cost or at concessional rate to the employee by the assessee,

(*iv*) payment by the assessee of any sum in respect of any obligation which, but for such payment, would have been payable by the employee, and

(*v*) payment by the assessee of any sum, whether directly or through a fund, other than a recognised provident fund or an approved superannuation fund, to effect an assurance on the life of the employee or to effect a contract for an annuity

(6) Where the assessee incurs any expenditure by way of fees for services rendered by a person who at any time during the twenty-four months immediately preceding the previous year was an employee of the assessee,—

(*a*) such expenditure by way of fees, or

(*b*) where the assessee has also incurred in relation to such person any expenditure by way of salary referred to in sub-clause (*i*) of clause (*a*) of sub-section (5), the aggregate of such expenditure by way of fees and by way of salary,

shall not be allowed as a deduction to the extent such expenditure by way of fees or, as the case may be, the aggregate of such expenditure by way of fees and by way of salary exceeds sixty thousand rupees]

[5][(7) (*a*) Subject to the provisions of clause (*b*), no deduction shall be allowed in respect of any provision (whether called as such or by any other name) made by the assessee for the payment of gratuity to his employees on their retirement or on termination of their employment for any reason

(*b*) Nothing in clause (*a*) shall apply in relation to—

(*i*) any provision made by the assessee for the purpose of payment of a sum by way of any contribution towards an approved gratuity fund, or for the purpose of payment of any gratuity, that has become payable during the previous year,

(*ii*) any provision made by the assessee for the previous year relevant to any assessment year commencing on or after the 1st day of April, 1973, but before the 1st day of April, 1976, to the extent the amount of such provision does not exceed the admissible amount, if the following conditions are fulfilled, namely —

(*1*) the provision is made in accordance with an actuarial valuation of the ascertainable liability of the assessee for payment of gratuity to his employees on their retirement or on termination of their employment for any reason,

(*2*) the assessee creates an approved gratuity fund for the exclusive benefit of his employees under an irrevocable trust, the application for the approval of the fund having been made before the 1st day of January, 1976, and

(*3*) a sum equal to at least fifty per cent of the admissible amount, or where any amount has been utilised out of such provision for the purpose of payment of any gratuity before the creation of the approved gratuity fund, a sum equal to at least fifty per cent. of the admissible amount as reduced by the amount so utilised, is paid by the assessee by way of contribution to the approved gratuity fund before the 1st day of April, 1976, and the balance of the admissible amount or, as the case may be, the balance of the admissible amount as reduced by the amount so utilised, is paid by the assessee by way of such contribution before the 1st day of April, 1977

Explanation 1 —For the purpose of sub-clause (*ii*) of clause (*b*) of this sub-section, "admissible amount" means the amount of the provision made by the assessee for the payment of gratuity to his employees on their retirement or on termination of their employment for any reason, to the extent such amount does not exceed an amount calculated at the rate of eight and one-third per cent of the salary (as defined in clause (*h*) of rule 2 of Part A of the Fourth Schedule) of each employee entitled to the payment of such gratuity for each year of his service in respect of which such provision is made

Explanation 2 —For the removal of doubts, it is hereby declared that where any provision made by the assessee for the payment of gratuity to his employees on their retirement or on termination of their employment for any reason has been allowed as a deduction in computing the income of the assessee for any assessment year, any sum paid out of such provision by way of contribution towards an approved gratuity fund or by way of gratuity to any employee shall not be allowed as a deduction in computing the income of the assessee of the previous year in which the sum is so paid]

[5] Inserted by s 6, F Act, 1975, w e f 1-4-1973

[6][(8) Where the assessee, being a company (other than a banking company or a financial company), incurs any expenditure by way of interest in respect of any deposit received by it, fifteen per cent of such expenditure shall not be allowed as a deduction.

Explanation—In this sub-section,—

(*a*) "banking company" means a company to which the Banking Regulation Act, 1949 (X of 1949), applies and includes any bank or banking institution referred to in section 51 of that Act,

(*b*) "deposit" means any deposit of money with, and includes any money borrowed by, a company, but does not include any amount received by the company—

(*i*) from the Central Government or any State Government or any local authority, or from any other source where the repayment of the amount is guaranteed by the Central Government or a State Government,

(*ii*) from the Government of a foreign State, or from a citizen of a foreign State, or from any institution, association or body (whether incorporated or not) established outside India,

(*iii*) as a loan from a banking company or from a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank),

(*iv*) as a loan from any institution or body specified in the list in the Tenth Schedule or such other institution or body as the Central Government may, having regard to the nature and objects of the institution or body, by notification in the Official Gazette, specify in this behalf,

(*v*) from any other company,

(*vi*) from an employee of the company by way of security deposit,

(*vii*) by way of security or as an advance from any purchasing agent, selling agent or other agent in the course of, or for the purpose of, the business of the company or as advance against orders for the supply of goods or for the rendering of any service,

(*viii*) by way of subscription to any share, stock, bond or debenture (such bond or debenture being secured by a charge or a lien on the assets of the company) pending the allotment of the said share, stock, bond or debenture, or by way of advance payment of any moneys uncalled and unpaid upon any shares in the company, if such moneys are not repayable in accordance with the articles of association of the company,

(*ix*) as a loan from any person where the loan is secured by the creation of a mortgage, charge or pledge of any assets of the company (such loan being hereafter in this sub-clause referred to as the relevant loan) and the amount of the relevant loan, together with the amount of any other prior debt or loan secured by the creation of a mortgage, charge or pledge of such assets, is not more than seventy-five per cent of the price that such assets would ordinarily fetch on sale in the open market on the date of creation of the mortgage, charge or pledge for the relevant loan,

(*c*) "financial company" means—

(*i*) a hire-purchase finance company, that is to say, a company which carries on, as its principal business, hire-purchase transactions or the financing of such transactions, or

[6] Inserted by s 6, F Act, 1975, w e f 1-4-1976

(ii) an investment company, that is to say, a company which carries on, as its principal business, the acquisition of shares, stock, bonds, debentures, debenture stock, or securities issued by the Government or a local authority, or other marketable securities of a like nature,

(iii) a housing finance company, that is to say, a company which carries on, as its principal business, the business of financing of acquisition or construction of houses, including acquisition or development of land in connection therewith,

(iv) a loan company, that is to say, a company (not being a company referred to in sub-clauses (i) to (iii)) which carries on, as its principal business, the business of providing finance, whether by making loans or advances or otherwise,

(v) a mutual benefit finance company, that is to say, a company which carries on, as its principal business, the business of acceptance of deposits from its members and which is declared by the Central Government under section 620A of the Companies Act, 1956 (I of 1956), to be a *Nidhi* or Mutual Benefit Society,

(vi) a miscellaneous finance company, that is to say, a company which carries on exclusively, or almost exclusively, two or more classes of business referred to in the preceding sub-clauses.]

41. Profits chargeable to tax.—(1) Where an allowance or deduction has been made in the assessment for any year in respect of loss, expenditure or trading liability incurred by the assessee, and subsequently during any previous year the assessee has obtained, whether in cash or in any other manner whatsoever, any amount in respect of such loss or expenditure or some benefit in respect of such trading liability by way of remission or cessation thereof, the amount obtained by him or the value of benefit accruing to him, shall be deemed to be profits and gains of business or profession and accordingly chargeable to income-tax as the income of that previous year, whether the business or profession in respect of which the allowance or deduction has been made is in existence in that year or not.

(2) Where any building, machinery, plant or furniture which is owned by the assessee and which was or has been used for the purposes of business or profession is sold, discarded, demolished or destroyed and the moneys payable in respect of such building, machinery, plant or furniture, as the case may be, together with the amount of scrap value, if any, exceed the written down value, so much of the excess as does not exceed the difference between the actual cost and the written down value shall be chargeable to income-tax as income of the business or profession of the previous year in which the moneys payable for the building, machinery, plant or furniture became due:

Provided that where the building sold, discarded, demolished or destroyed is a building to which *Explanation 5* to section 43 applies, and the moneys payable in respect of such building together with the amount of scrap value, if any, exceed the actual cost as determined under that *Explanation*, so much of the excess as does not exceed the difference between the actual cost so determined and the written down value shall be chargeable to income-tax as income of the business or profession of such previous year.

Explanation.—Where the moneys payable in respect of the building, machinery, plant or furniture referred to in this sub-section become due in a previous year in which the business or profession for the purpose of which the building, machinery, plant or furniture was being used is no longer in existence, the provisions of this sub-section shall apply as if the business or profession is in existence in that previous year.

[7][(2A) Where any structure or work in or in connection with a building, being the structure or work referred to in sub-section (1A) of section 32, is sold, discarded, demolished, destroyed or is surrendered as a result of the determination of the lease or other right of occupancy in respect of the building and the moneys payable in respect of such structure or work together with the amount of scrap value, if any, exceed the written down value, so much of the excess as does not exceed the difference between the actual cost of the structure or work and its written down value shall be chargeable to income-tax as income of the business or profession of the previous year in which the moneys payable for the structure or work became due

Explanation 1—Where the moneys payable in respect of the structure or work referred to in this sub-section become due in a previous year in which the business or profession for the purpose of which the structure or work was constructed or done is no longer in existence, the provisions of this sub-section shall apply as if the business or profession were in existence in that previous year

Explanation 2—For the purposes of this sub-section, the expression "moneys payable" and the expression "sold" shall have the same meanings as in sub-section (1A) of section 32]

(3) Where an asset representing expenditure of a capital nature on scientific research within the meaning of clause (*iv*) of sub-section (1) of section 35, read with clause (*4*) of section 43, is sold, without having been used for other purposes, and the proceeds of the sale together with the total amount of the deductions made under clause (*i*) [8][or, as the case may be, the amount of the deduction under clause (*i-a*)] of sub-section (2) of section 35 exceed the amount of the capital expenditure, the excess or the amount of the deductions so made, whichever is the less, shall be chargeable to income-tax as income of the business or profession of the previous year in which the sale took place

Explanation—Where the moneys payable in respect of any asset referred to in this sub-section become due in a previous year in which the business is no longer in existence, the provisions of this sub-section shall apply as if the business is in existence in that previous year

(4) Where a deduction has been allowed in respect of a bad debt or part of debt under the provisions of clause (*vii*) of sub-section (1) of section 36, then, if the amount subsequently recovered on any such debt or part is greater than the difference between the debt or part of debt and the amount so allowed, the excess shall be deemed to be profits and gains of business or profession, and accordingly chargeable to income-tax as the income of the previous year in which it is recovered, whether the business or profession in respect of which the deduction has been allowed is in existence in that year or not

Explanation—The expression "moneys payable" and the expression "sold" in sub-sections (2) and (3) shall have the same meanings as in sub-section (1) of section 32

(5) Where the business or profession referred to in this section is no longer in existence and there is income chargeable to tax under sub-section (1), sub-section (2), [9][sub-section (2A),] sub-section (3) or sub-section (4) in respect of that business or profession, any loss, not being a loss sustained in speculation business or under the head "Capital gains", which arose in that business or profession during the previous year in which it ceased to exist and which could not be set off against any other income of that previous year shall, so far as may be, be set off against the income chargeable to tax under the sub-sections aforesaid

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[7] Inserted by s 11, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971
[8] Inserted by s 33 and 3rd Sch , F (No 2) Act, 1967, w e f 1-4-1968
[9] Inserted by s 11, Taxation Laws (Amendment) Act, 1970, w e f. 1-4-1971

42. Special provision for deductions in the case of business for prospecting, etc., for mineral oil.—For the purpose of computing the profits or gains of any business consisting of the prospecting for or extraction or production of mineral oils in relation to which the Central Government has entered into an agreement with any person for the association or participation in such business of the Central Government (which agreement has been laid on the Table of each House of Parliament), there shall be made in lieu of, or in addition to, the allowances admissible under this Act, such allowances as are specified in the agreement in relation—

(*a*) to expenditure by way of infructuous or abortive exploration expenses in respect of any area surrendered prior to the beginning of commercial production by the assessee,

(*b*) after the beginning of commercial production, to expenditure incurred by the assessee, whether before or after such commercial production, in respect of drilling or exploration activities or services or in respect of physical assets used in that connection, except assets on which allowance for depreciation is admissible under section 32, and

(*c*) to the depletion of mineral oil in the mining area in respect of the assessment year relevant to the previous year in which commercial production is begun and for such succeeding year or years as may be specified in the agreement,

and such allowances shall be computed and made in the manner specified in the agreement, the other provisions of this Act being deemed for this purpose to have been modified to the extent necessary to give effect to the terms of the agreement

43. Definitions of certain terms relevant to income from profits and gains of business or profession.—In sections 28 to 41 and in this section, unless the context otherwise requires—

(*1*) "actual cost" means the actual cost of the assets to the assessee, reduced by that portion of the cost thereof, if any, as has been met directly or indirectly by any other person or authority

[10][Provided that where the actual cost of an asset, being a motor car which is acquired by the assessee after the 31st day of March, 1967, [11][but before the 1st day of March, 1975,] and is used otherwise than in a business of running it on hire for tourists, exceeds twenty-five thousand rupees, the excess of the actual cost over such amount shall be ignored, and the actual cost thereof shall be taken to be twenty-five thousand rupees]

Explanation 1 —Where an asset is used in the business after it ceases to be used for scientific research related to that business and a deduction has to be made under clause (*i*), clause (*ii*) or clause (*iii*) of sub-section (1) [12][or sub-section (1A)] of section 32 in respect of that asset, the actual cost of the asset to the assessee shall be the actual cost to the assessee as reduced by the amount of any deduction allowed under clause (*iv*) of sub-section (1) of section 35 or under any corresponding provision of the Indian Income-tax Act, 1922 (XI of 1922)

Explanation 2 —Where an asset is acquired by the assessee by way of gift or inheritance, the actual cost of the asset to the assessee shall be the written down value thereof as in the case of the previous owner for

[10] Inserted by s 12, F Act, 1966, w e f 1-4-1966, and substituted by s 33 and 3rd Sch , F (No 2) Act, 1967, w e f 1-4-1968

[11] Inserted by s 7, F Act, 1975, w e f 1-4-1975

[12] Inserted by s 12, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

the previous year in which the asset is so acquired or the market value thereof on the date of such acquisition, whichever is the less

Explanation 3.—Where, before the date of acquisition by the assessee, the assets were at any time used by any other person for the purposes of his business or profession and the Income-tax Officer is satisfied that the main purpose of the transfer of such assets, directly or indirectly to the assessee, was the reduction of a liability to income-tax (by claiming depreciation with reference to an enhanced cost), the actual cost to the assessee shall be such an amount as the Income-tax Officer may, with the previous approval of the Inspecting Assistant Commissioner, determine having regard to all the circumstances of the case

Explanation 4—Where assets which had once belonged to the assessee and had been used by him for the purposes of his business or profession and thereafter ceased to be his property by reason of transfer or otherwise, are re-acquired by him, the actual cost to the assessee shall be the actual cost to him when he first acquired the assets less the depreciation actually allowed to him under this Act or under the corresponding provisions of the Indian Income-tax Act, 1922 (XI of 1922), diminished by any loss deducted, or as the case may be, increased by any profit assessed, under the provisions of clause (*iii*) of sub-section (1) [13][or clause (*ii*) of sub-section (1A)] of section 32 or sub-section (2) [13][or sub-section (2A)] of section 41 of this Act or under the corresponding provisions of the Indian Income-tax Act, 1922 (XI of 1922), or the actual price for which the asset is re-acquired by him, whichever is the less

Explanation 5—Where a building previously the property of the assessee is brought into use for the purpose of the business or profession after the 28th day of February, 1946, the actual cost to the assessee shall be the actual cost of the building to the assessee, as reduced by an amount equal to the depreciation calculated at the rate in force on that date that would have been allowable had the building been used for the aforesaid purposes since the date of its acquisition by the assessee

[14][*Explanation 6*—When any capital asset is transferred by a holding company to its subsidiary company or by a subsidiary company to its holding company, then, if the conditions of clause (*iv*) or, as the case may be, of clause (*v*) of section 47 are satisfied, the actual cost of the transferred capital asset to the transferee company shall be taken to be the same as it would have been if the transferor company had continued to hold the capital asset for the purposes of its business]

[15][*Explanation 7*—Where, in a scheme of amalgamation, any capital asset is transferred by the amalgamating company to the amalgamated company and the amalgamated company is an Indian company, the actual cost of the transferred capital asset to the amalgamated company shall be taken to be the same as it would have been if the amalgamating company had continued to hold the capital asset for the purposes of its own business,]

(2) "paid" means actually paid or incurred according to the method of accounting upon the basis of which the profits or gains are computed under the head "Profits and gains of business or profession",

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[13] Inserted by s 12, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971
[14] Substituted by s 14, F Act, 1965, w e f 1-4-1965
[15] Inserted by s 16, F (No 2) Act, 1967, w e f 1-4-1967

(3) "plant" includes ships, vehicles, books, scientific apparatus and surgical equipment used for the purposes of the business or profession,

(4) [16][(i) "scientific research" means any activities for the extension of knowledge in the fields of natural or applied science including agriculture, animal husbandry or fisheries,]

(ii) references to expenditure incurred on scientific research include all expenditure incurred for the prosecution, or the provision of facilities for the prosecution, of scientific research, but do not include any expenditure incurred in the acquisition of rights in, or arising out of, scientific research,

(iii) references to scientific research related to a business or class of business include—

(a) any scientific research which may lead to or facilitate an extension of that business or, as the case may be, all businesses of that class,

(b) any scientific research of a medical nature which has a special relation to the welfare of workers employed in that business or, as the case may be, all businesses of that class,

(5) "speculative transaction" means a transaction in which a contract for the purchase or sale of any commodity, including stocks and shares, is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scrips

Provided that for the purposes of this clause—

(a) a contract in respect of raw materials or merchandise entered into by a person in the course of his manufacturing or merchanting business to guard against loss through future price fluctuations in respect of his contracts for actual delivery of goods manufactured by him or merchandise sold by him, or

(b) a contract in respect of stocks and shares entered into by a dealer or investor therein to guard against loss in his holdings of stocks and shares through price fluctuations, or

(c) a contract entered into by a member of a forward market or a stock exchange in the course of any transaction in the nature of jobbing or arbitrage to guard against loss which may arise in the ordinary course of his business as such member;

shall not be deemed to be a speculative transaction;

(6) "written down value" means—

(a) in the case of assets acquired in the previous year, the actual cost to the assessee,

(b) in the case of assets acquired before the previous year, the actual cost to the assessee less all depreciation actually allowed to him under this Act, or under the Indian Income-tax Act, 1922 (XI of 1922), or any Act repealed by that Act, or under any executive orders issued when the Indian Income-tax Act, 1886 (II of 1886), was in force

[16] Substituted by s 30 and 3rd Sch, F Act, 1968, w e f 1-4-1969

[17][Provided that in determining the written down value in respect of buildings, machinery or plant for the purposes of clause (*ii*) of sub-section (1) of section 32, "depreciation actually allowed" shall not include depreciation allowed under sub-clauses (*a*), (*b*) and (*c*) of clause (*vi*) of sub-section (2) of section 10 of the Indian Income-tax Act, 1922 (XI of 1922), where such depreciation was not deductible in determining the written down value for the purposes of the said clause (*vi*)]

Explanation 1—When in a case of succession in business or profession, an assessment is made on the successor under sub-section (2) of section 170 the written down value of any asset shall be the amount which would have been taken as its written down value if the assessment had been made directly on the person succeeded to

[18][*Explanation 2*—When any capital asset is transferred by a holding company to its subsidiary company or by a subsidiary company to its holding company, then, if the conditions of clause (*iv*) or, as the case may be, of clause (*v*) of section 47 are satisfied, the written down value of the transferred capital asset to the transferee company shall be taken to be the same as it would have been if the transferor company had continued to hold the capital asset for the purposes of its business]

[19][*Explanation 2A*—Where, in a scheme of amalgamation, any capital asset is transferred by the amalgamating company to the amalgamated company, and the amalgamated company is an Indian company, the written down value of the transferred capital asset to the amalgamated company shall be taken to be the same as it would have been if the amalgamating company had continued to hold the capital asset for the purposes of its business.]

Explanation 3—Any allowance in respect of any depreciation carried forward under sub-section (2) of section 32 shall be deemed to be depreciation "actually allowed"

[20][**43A. Special provisions consequential to changes in rate of exchange of currency.**—(1) Notwithstanding anything contained in any other provision of this Act, where an assessee has acquired any asset from a country outside India for the purposes of his business or profession and, in consequence of a change in the rate of exchange at any time after the acquisition of such asset, there is an increase or reduction in the liability of the assessee as expressed in Indian currency for making payment towards the whole or a part of the cost of the asset or for repayment of the whole or a part of the moneys borrowed by him from any person, directly or indirectly, in any foreign currency specifically for the purpose of acquiring the asset (being in either case the liability existing immediately before the date on which the change in the rate of exchange takes effect), the amount by which the liability aforesaid is so increased or reduced during the previous year shall be added to, or, as the case may be, deducted from, the actual cost of the asset as defined in clause (*1*) of section 43 or the amount of expenditure of a capital nature referred to in clause (*iv*) of sub-section (1) of section 35 or in section 35A or in clause (*ix*) of sub-section (1) of section 36 or, in the case of a capital asset (not being a capital asset referred to in section 50), the cost of acquisition thereof for the purposes of section 48, and the amount arrived at after such addition or deduction shall be taken to be the actual cost of the asset or the amount of expenditure of a

[17] Retrospectively inserted by s 6, F (No 2) Act, 1965
[18] Substituted by s 14, F Act, 1965, w e f. 1-4-1965
[19] Inserted by s 16, F (No 2) Act, 1967, w e f 1-4-1967
[20] Inserted by s 17, *ibid*, w. e f 1-4-1967.

capital nature or, as the case may be, the cost of acquisition of the capital asset as aforesaid

Explanation 1—In this sub-section, unless the context otherwise requires,—

(*a*) "rate of exchange" means the rate of exchange determined or recognised by the Central Government for the conversion of Indian currency into foreign currency or foreign currency into Indian currency,

(*b*) "foreign currency" and "Indian currency" have the meanings respectively assigned to them in section 2 of the Foreign Exchange Regulation Act, 1947 (VII of 1947)

Explanation 2—Where the whole or any part of the liability aforesaid is met, not by the assessee, but, directly or indirectly, by any other person or authority, the liability so met shall not be taken into account for the purposes of this sub-section

Explanation 3—Where the assessee has entered into a contract with an authorised dealer as defined in section 2 of the Foreign Exchange Regulation Act, 1947 (VII of 1947), for providing him with a specified sum in a foreign currency on or after a stipulated future date at the rate of exchange specified in the contract to enable him to meet the whole or any part of the liability aforesaid, the amount, if any, to be added to, or deducted from, the actual cost of the asset or the amount of expenditure of a capital nature or, as the case may be, the cost of acquisition of the capital asset under this sub-section shall, in respect of so much of the sum specified in the contract as is available for discharging the liability aforesaid, be computed with reference to the rate of exchange specified therein

(2) The provisions of sub-section (1) shall not be taken into account in computing the actual cost of an asset for the purpose of the deduction on account of development rebate under section 33]

44. Insurance business.—Notwithstanding anything to the contrary contained in the provisions of this Act relating to the computation of income chargeable under the head "Interest on securities", "Income from house property", "Capital gains" or "Income from other sources", or in section 199 or in sections 28 to [21][43A], the profits and gains of any business of insurance, including any such business carried on by a mutual insurance company or by a co-operative society, shall be computed in accordance with the rules contained in the First Schedule

[22][**44A. Special provision for deduction in the case of trade, professional or similar association.**—(1) Notwithstanding anything to the contrary contained in this Act, where the amount received during a previous year by any trade, professional or similar association [23][(other than an association or institution referred to in clause (*23A*) of section 10)] from its members, whether by way of subscription or otherwise (not being remuneration received for rendering any specific services to such members) falls short of the expenditure incurred by such association during that previous year (not being expenditure deductible in computing the income under any other provision of this Act and not being in the nature of capital expenditure) solely for the purposes of protection or advancement of the common interests of its members, the amount so fallen short (hereinafter referred to as deficiency) shall, subject to the provisions of this section, be allowed as a deduction in computing the income of the association assessable for the relevant assessment year under the head "Profits and gains of business or profession" and if there is no income assessable under that head or the deficiency allowable exceeds such income, the whole or the balance of the deficiency, as the

[21] Substituted for "43" by s 18, F (No 2) Act, 1967, w e f 1-4-1967
[22] Inserted by s 11, F Act, 1964, w e f 1-4-1964
[23] Retrospectively inserted by s 7, F (No 2) Act, 1965

case may be, shall be allowed as a deduction in computing the income of the association assessable for the relevant assessment year under any other head

(2) In computing the income of the association for the relevant assessment year under sub-section (1), effect shall first be given to any other provision of this Act under which any allowance or loss in respect of any earlier assessment year is carried forward and set off against the income for the relevant assessment year

(3) The amount of deficiency to be allowed as a deduction under this section shall in no case exceed one-half of the total income of the association as computed before making any allowance under this section

(4) This section applies only to that trade, professional or similar association the income of which or any part thereof is not distributed to its members except as grants to any association or institution affiliated to it]

[24][**44AA. Maintenance of accounts by certain persons carrying on profession or business.**—(1) Every person carrying on legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or any other profession as is notified by the Board in the Official Gazette shall keep and maintain such books of account and other documents as may enable the Income-tax Officer to compute his total income in accordance with the provisions of this Act

(2) Every person carrying on business or profession (not being a profession referred to in sub-section (1)) shall,—

(*i*) if his income from business or profession exceeds twenty-five thousand rupees or his total sales, turnover or gross receipts, as the case may be, in business or profession exceed or exceeds two hundred and fifty thousand rupees in any one of the three years immediately preceding the previous year, or

(*ii*) where the business or profession is newly set up in any previous year, if his income from business or profession is likely to exceed twenty-five thousand rupees or his total sales, turnover or gross receipts, as the case may be, in business or profession are or is likely to exceed two hundred and fifty thousand rupees, during such previous year,

keep and maintain such books of account and other documents as may enable the Income-tax Officer to compute his total income in accordance with the provisions of this Act

(3) The Board may, having regard to the nature of the business or profession carried on by any class of persons, prescribe, by rules, the books of account and other documents (including inventories, wherever necessary) to be kept and maintained under sub-section (1) or sub-section (2), the particulars to be contained therein and the form and the manner in which and the place at which they shall be kept and maintained

(4) Without prejudice to the provisions of sub-section (3), the Board may prescribe, by rules, the period for which the books of account and other documents to be kept and maintained under sub-section (1) or sub-section (2) shall be retained]

[25][**44B. Special provision for computing profits and gains of shipping business in the case of non-residents.**—(1) Notwithstanding anything to the contrary contained in sections 28 to 43A, in the case of an assessee, being a non-resident, engaged in the

[24] Inserted by s. 11, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976
[25] Inserted by s 8, F Act, 1975, w e f 1-4-1976

business of operation of ships, a sum equal to seven and a half per cent of the aggregate of the amounts specified in sub-section (2) shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession"

(2) The amounts referred to in sub-section (1) shall be the following, namely —

(*i*) the amount paid or payable (whether in or out of India) to the assessee or to any person on his behalf on account of the carriage of passengers, live-stock, mail or goods shipped at any port in India, and

(*ii*) the amount received or deemed to be received in India by or on behalf of the assessee on account of the carriage of passengers, live-stock, mail or goods shipped at any port outside India]

E —Capital gains

45. Capital gains.—[1][(1)] Any profits or gains arising from the transfer of a capital asset effected in the previous year shall, save as otherwise provided in sections [2][53, 54, 54B, 54C and 54D], be chargeable to income-tax under the head "Capital gains", and shall be deemed to be the income of the previous year in which the transfer took place

[1](2)—(4)* * * * *

46. Capital gains on distribution of assets by companies in liquidation.—(1) Notwithstanding anything contained in section 45, where the assets of a company are distributed to its shareholders on its liquidation, such distribution shall not be regarded as a transfer by the company for the purposes of section 45

(2) Where a shareholder on the liquidation of a company receives any money or other assets from the company, he shall be chargeable to income-tax under the head "Capital gains", in respect of the money so received or the market value of the other assets on the date of distribution, as reduced by the amount assessed as dividend within the meaning of sub-clause (*c*) of clause (*22*) of section 2 and the sum so arrived at shall be deemed to be the full value of the consideration for the purposes of section 48

47. Transactions not regarded as transfer.—Nothing contained in section 45 shall apply to the following transfers —

(*i*) any distribution of capital assets on the total or partial partition of a Hindu undivided family,

(*ii*) any distribution of capital assets on the dissolution of a firm, body of individuals or other association of persons,

(*iii*) any transfer of a capital asset under a gift or will or an irrevocable trust,

(*iv*) any transfer of a capital asset by a company to its subsidiary company if—

(*a*) the parent company or its nominees hold the whole of the share capital of the subsidiary company, and

(*b*) the subsidiary company is an Indian company,

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1 "(1)" and sub-ss (2) to (4) inserted by s 12, F Act, 1964, w e f 1-4-1964, and sub-ss (2) to (4) omitted by s 13, F Act, 1966, w e f 1-4-1966

2 "53, 54 and 54B" substituted for "53 and 54" by s 11, F Act, 1970, w e f 1-4-1970 "53, 54, 54B and 54C" substituted for "53, 54 and 54B" by s 8, F Act, 1972, w e f 1-4-1973 "53, 54, 54B, 54C and 54D" substituted for "53, 54, 54B and 54C" by s 6, F Act, 1973, w e f 1-4-1974

[3][(*v*) any transfer of a capital asset by a subsidiary company to the holding company if—

(*a*) the whole of the share capital of the subsidiary company is held by the holding company, and

(*b*) the holding company is an Indian company,]

[4][(*vi*) any transfer, in a scheme of amalgamation, of a capital asset by the amalgamating company to the amalgamated company if the amalgamated company is an Indian company,

(*vii*) any transfer by a shareholder, in a scheme of amalgamation, of a capital asset being a share or shares held by him in the amalgamating company if—

(*a*) the transfer is made in consideration of the allotment to him of any share or shares in the amalgamated company, and

(*b*) the amalgamated company is an Indian company,]

[5][(*viii*) any transfer of agricultural land in India effected before the 1st day of March, 1970]

48. Mode of computation and deductions.—The income chargeable under the head "Capital gains" shall be computed by deducting from the full value of the consideration received or accruing as a result of the transfer of the capital asset the following amounts, namely —

(*i*) expenditure incurred wholly and exclusively in connection with such transfer,

(*ii*) the cost of acquisition of the capital asset and the cost of any improvement thereto

49. Cost with reference to certain modes of acquisition.—[6][(1)] Where the capital asset became the property of the assessee—

(*i*) on any distribution of assets on the total or partial partition of a Hindu undivided family,

(*ii*) under a gift or will,

(*iii*) (*a*) by succession, inheritance or devolution, or

(*b*) on any distribution of assets on the dissolution of a firm, body of individuals or other association of persons, or

(*c*) on any distribution of assets on the liquidation of a company, or

(*d*) under a transfer to a revocable or an irrevocable trust, or

(*e*) under any such transfer as is referred to in clause (*iv*) [7][or clause (*v*)] [8][or clause (*vi*)] of section 47,

[9][(*iv*) such assessee being a Hindu undivided family, by the mode referred to in sub-section (2) of section 64 at any time after the 31st day of December, 1969,]

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3 Inserted by s 15, F Act, 1965, w e f 1-4-1965
4 Inserted by s 19, F (No 2) Act, 1967, w e f 1-4-1967
5 Inserted by s 11, F Act, 1970, w e f 1-4-1970
6 Inserted by s 20, F (No 2) Act, 1967, w e f 1-4-1967
7 Inserted by s 16, F Act, 1965, w e f 1-4-1965
8 Inserted by s 20, F (No 2) Act, 1967, w e f 1-4-1967
9 Inserted by s 12, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976

the cost of acquisition of the asset shall be deemed to be the cost for which the previous owner of the property acquired it, as increased by the cost of any improvement of the assets incurred or borne by the previous owner or the assessee, as the case may be

[10][*Explanation*—In this [11][sub-section] the expression "previous owner of the property" in relation to any capital asset owned by an assessee means the last previous owner of the capital asset who acquired it by a mode of acquisition other than that referred to in clause (*i*) or clause (*ii*) or clause (*iii*) [12][or clause (*iv*)] of this [11][sub-section]]

[13][(2) Where the capital asset being a share or shares in an amalgamated company which is an Indian company became the property of the assessee in consideration of a transfer referred to in clause (*vii*) of section 47, the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the share or shares in the amalgamating company]

50 Special provision for computing cost of acquisition in the case of depreciable assets.—Where the capital asset is an asset in respect of which a deduction on account of depreciation has been obtained by the assessee in any previous year either under this Act or under the Indian Income-tax Act, 1922 (XI of 1922), or any Act repealed by that Act, or under executive orders issued when the Indian Income-tax Act, 1886 (II of 1886), was in force, the provisions of sections 48 and 49 shall be subject to the following modifications —

(*1*) The written down value, as defined in clause (*6*) of section 43, of the asset, as adjusted, shall be taken as the cost of acquisition of the asset

(*2*) Where under any provision of section 49, read with sub-section (2) of section 55, the fair market value of the asset on the 1st day of January, 1954, is to be taken into account at the option of the assessee, then, the cost of acquisition of the asset shall, at the option of the assessee, be the fair market value of the asset on the said date, as reduced by the amount of depreciation, if any, allowed to the assessee after the said date, and as adjusted

51. Advance money received.—Where any capital asset was on any previous occasion the subject of negotiations for its transfer, any advance or other money received and retained by the assessee in respect of such negotiations shall be deducted from the cost for which the asset was acquired or the written down value or the fair market value, as the case may be, in computing the cost of acquisition

52. Consideration for transfer in cases of understatement.—[14][(1)] Where the person who acquires a capital asset from an assessee is directly or indirectly connected with the assessee and the Income-tax Officer has reason to believe that the transfer was effected with the object of avoidance or reduction of the liability of the assessee under section 45, the full value of the consideration for the transfer shall, with the previous approval of the Inspecting Assistant Commissioner, be taken to be the fair market value of the capital asset on the date of the transfer.

[14][(2) Without prejudice to the provisions of sub-section (1), if in the opinion of the Income-tax Officer the fair market value of a capital asset transferred by an assessee as on the date of the transfer exceeds the full value of the consideration declared by the assessee in respect of the transfer of such capital asset by an amount of not less than fifteen per cent of the value so declared, the full value of the consideration

[10] Inserted by s 16, F Act, 1965, w e f 1-4-1965
[11] Substituted for "section" by s 20, F (No 2) Act, 1967, w e f 1-4-1967
[12] Inserted by s 12, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976
[13] Inserted by s 20, F (No 2) Act, 1967, w. e f 1-4-1967
[14] Inserted by s 13, F Act, 1964, w e f 1-4-1964

for such capital asset shall, with the previous approval of the Inspecting Assistant Commissioner, be taken to be its fair market value on the date of its transfer:]

[15][Provided that this sub-section shall not apply in any case—

(*a*) where the capital asset is transferred to the Government, or

(*b*) where the full value of the consideration for the transfer of the capital asset is determined or approved by the Central Government or the Reserve Bank of India and the adequacy of the full value of the consideration so determined or approved is not questioned by the assessee]

53. Capital gains exempt from tax.—Notwithstanding anything contained in section 45, where a capital gain arises from the transfer of one or more capital assets, being buildings or lands appurtenant thereto, the income of which is chargeable under the head "Income from house property", and the full aggregate value of the consideration for which the transfer is made does not exceed twenty-five thousand rupees, the capital gain shall not be included in the total income of the assessee

Provided that this section shall not apply in any case where the aggregate of the fair market values of all capital assets, being buildings or lands appurtenant thereto the income of which is chargeable under the head "Income from house property", owned by the assessee immediately before the transfer aforesaid is made, exceeds the sum of rupees fifty thousand

54. Profit on sale of property used for residence.—Where a capital gain arises from the transfer of a capital asset to which the provisions of section 53 are not applicable, being buildings or lands appurtenant thereto the income of which is chargeable under the head "Income from house property", which in the two years immediately preceding the date on which the transfer took place, was being used by the assessee or a parent of his mainly for the purposes of his own or the parent's own residence, and the assessee has within a period of one year before or after that date purchased, or has within a period of two years after that date constructed, a house property for the purposes of his own residence, then, instead of the capital gain being charged to income-tax as income of the previous year in which the transfer took place, it shall be dealt with in accordance with the following provisions of this section, that is to say,—

(*i*) if the amount of the capital gain is greater than the cost of the new asset, the difference between the amount of the capital gain and the cost of the new asset shall be charged under section 45 as the income of the previous year, and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be nil, or

(*ii*) if the amount of the capital gain is equal to or less than the cost of the new asset, the capital gain shall not be charged under section 45, and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be reduced by the amount of the capital gain

54A.—*Inserted by s 17 of the Finance Act, 1965, with effect from 1st April 1965, and omitted by s 11 of the Finance (No 2) Act, 1971, with effect from 1st April 1972*

[16][**54B. Capital gain on transfer of land used for agricultural purposes not to be charged in certain cases.**—Where the capital gain arises from the transfer of a capital

[15] Inserted by s 9, F. Act, 1975, w e f 1-4-1974
[16] Inserted by s 11, F. Act, 1970, w e f 1-4-1970

asset being land which, in the two years immediately preceding the date on which the transfer took place, was being used by the assessee or a parent of his for agricultural purposes, and the assessee has, within a period of two years after that date, purchased any other land for being used for agricultural purposes, then, instead of the capital gain being charged to income-tax as income of the previous year in which the transfer took place, it shall be dealt with in accordance with the following provisions of this section, that is to say,—

(*i*) if the amount of the capital gain is greater than the cost of the land so purchased (hereinafter referred to as the new asset), the difference between the amount of the capital gain and the cost of the new asset shall be charged under section 45 as the income of the previous year, and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase, the cost shall be nil, or

(*ii*) if the amount of the capital gain is equal to or less than the cost of the new asset, the capital gain shall not be charged under section 45, and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase, the cost shall be reduced by the amount of the capital gain]

[17][**54C. Capital gain on transfer of jewellery held for personal use not to be charged in certain cases.**—Where the capital gain arises from the transfer of a capital asset, being jewellery held for personal use by the assessee or any member of his family dependent on him, and the assessee has, within a period of six months after such transfer, acquired any other jewellery for personal use by the assessee or any member of his family dependent on him, the capital gain shall be dealt with in accordance *with the following provisions of this section, that is to say,*—

(*i*) if the cost of the jewellery so acquired is not less than the full value of the consideration received or accruing in respect of the transferred jewellery, the whole of such capital gain shall not be charged under section 45, or

(*ii*) if the cost of the jewellery so acquired is less than the full value of the consideration received or accruing in respect of the transferred jewellery, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of the jewellery so acquired bears to the full value of the consideration received or accruing in respect of the transferred jewellery shall not be charged under section 45

Explanation —For the purposes of this section, "jewellery" shall have the same meaning as is assigned to it in the *Explanation* to sub-clause (*ii*) of clause (*14*) of section 2]

[18][**54D. Capital gain on compulsory acquisition of lands and buildings not to be charged in certain cases.**—Where the capital gain arises from the transfer by way of compulsory acquisition under any law of a capital asset, being land or building or any right in land or building, forming part of an industrial undertaking belonging to the assessee which, in the two years immediately preceding the date on which the transfer took place, was being used by the assessee for the purposes of the business of the said undertaking, and the assessee has within a period of three years after that date purchased any other land or building or any right in any other land or building or

[17] Inserted by s 9, F Act, 1972, w e f 1-4-1973
[18] Inserted by s 7, F Act, 1973, w e f 1-4-1974

constructed any other building for the purposes of shifting or re-establishing the said undertaking or setting up another industrial undertaking, then, instead of the capital gain being charged to income-tax as the income of the previous year in which the transfer took place, it shall be dealt with in accordance with the following provisions of this section, that is to say,—

(*i*) if the amount of the capital gain is greater than the cost of the land, building or right so purchased or the building so constructed (such land, building or right being hereafter in this section referred to as the new asset), the difference between the amount of the capital gain and the cost of the new asset shall be charged under section 45 as the income of the previous year, and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be nil, or

(*ii*) if the amount of the capital gain is equal to or less than the cost of the new asset, the capital gain shall not be charged under section 45, and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be reduced by the amount of the capital gain]

55. Meaning of "adjusted", "cost of improvement" and "cost of acquisition".— (1) For the purposes of sections 48, 49 and 50,—

(*a*) "adjusted", in relation to written down value or fair market value, means diminished by any loss deducted or increased by any profit assessed, under the provisions of clause (*iii*) of sub-section (1) [19][or clause (*ii*) of sub-section (1A)] of section 32 or sub-section (2) [19][or sub-section (2A)] of section 41, as the case may be, the computation for this purpose being made with reference to the period commencing from the 1st day of January, 1954, in cases to which clause (*2*) of section 50 applies,

(*b*) "cost of any improvement", in relation to a capital asset,—

(*i*) where the capital asset became the property of the previous owner or the assessee before the 1st day of January, 1954, and the fair market value of the asset on that day is taken as the cost of acquisition at the option of the assessee, means all expenditure of a capital nature incurred in making any additions or alterations to the capital asset on or after the said date by the previous owner or the assessee, and

(*ii*) in any other case, means all expenditure of a capital nature incurred in making any additions or alterations to the capital asset by the assessee after it became his property, and, where the capital asset became the property of the assessee by any of the modes specified in [20][sub-section (1) of] section 49, by the previous owner,

but does not include any expenditure which is deductible in computing the income chargeable under the head "Interest on securities", "Income from house property", "Profits and gains of business or profession", or "Income from other sources", and the expression "improvement" shall be construed accordingly

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[19] Inserted by s 13, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971
[20] Inserted by s 21, F (No 2) Act, 1967, w e f 1-4-1967

(2) For the purposes of sections 48 and 49, "cost of acquisition", in relation to a capital asset,—

(i) where the capital asset became the property of the assessee before the 1st day of January, 1954, means the cost of acquisition of the asset to the assessee or the fair market value of the asset on the 1st day of January, 1954, at the option of the assessee,

(ii) where the capital asset became the property of the assessee by any of the modes specified in [21][sub-section (1) of] section 49, and the capital asset became the property of the previous owner before the 1st day of January, 1954, means the cost of the capital asset to the previous owner or the fair market value of the asset on the 1st day of January, 1954, at the option of the assessee,

(iii) where the capital asset became the property of the assessee on the distribution of the capital assets of a company on its liquidation and the assessee has been assessed to income-tax under the head "Capital gains" in respect of that asset under section 46, means the fair market value of the asset on the date of distribution,

[22][(iv) [23]* * * * *

(v) where the capital asset, being a share or a stock of a company, became the property of the assessee on—

(a) the consolidation and division of all or any of the share capital of the company into shares of larger amount than its existing shares,

(b) the conversion of any shares of the company into stock,

(c) the reconversion of any stock of the company into shares,

(d) the sub-division of any of the shares of the company into shares of smaller amount, or

(e) the conversion of one kind of shares of the company into another kind,

means the cost of acquisition of the asset calculated with reference to the cost of acquisition of the shares or stock from which such asset is derived]

(3) Where the cost for which the previous owner acquired the property cannot be ascertained, the cost of acquisition to the previous owner means the fair market value on the date on which the capital asset became the property of the previous owner.

[24][55A. **Reference to Valuation Officer.**—With a view to ascertaining the fair market value of a capital asset for the purposes of this Chapter, the Income-tax Officer may refer the valuation of the capital asset to a Valuation Officer—

(a) in a case where the value of the asset as claimed by the assessee is in accordance with the estimate made by a registered valuer, if the Income-tax Officer is of opinion that the value so claimed is less than its fair market value,

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[21] Inserted by s 21, F (No 2) Act, 1967, w e f 1-4-1967.
[22] Inserted by s 14, F Act, 1964, w e f 1-4-1964
[23] Omitted by s 14, F Act, 1966, w e f 1-4-1966
[24] Inserted by s 2, Taxation Laws (Amendment) Act, 1972, w e f 1-1-1973

(*b*) in any other case, if the Income-tax Officer is of opinion—

(*i*) that the fair market value of the asset exceeds the value of the asset as claimed by the assessee by more than such percentage of the value of the asset as so claimed or by more than such amount as may be prescribed in this behalf, or R 111AA

(*ii*) that having regard to the nature of the asset and other relevant circumstances, it is necessary so to do,

and where any such reference is made, the provisions of sub-sections (2), (3), (4), (5) and (6) of section 16A, clauses (*h-a*) and (*i*) of sub-section (1) and sub-sections (3A) and (4) of section 23, sub-section (5) of section 24, section 34AA, section 35 and section 37 of the Wealth-tax Act, 1957 (XXVII of 1957), shall, with the necessary modifications, apply in relation to such reference as they apply in relation to a reference made by the Wealth-tax Officer under sub-section (1) of section 16A of that Act R 111AB

Explanation —In this section, "Valuation Officer" has the same meaning as in clause (*r*) of section 2 of the Wealth-tax Act, 1957 (XXVII of 1957)]

F.—Income from other sources

56. Income from other sources.—(1) Income of every kind which is not to be excluded from the total income under this Act shall be chargeable to income-tax under the head "Income from other sources", if it is not chargeable to income-tax under any of the heads specified in section 14, items A to E

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), the following income shall be chargeable to income-tax under the head "Income from other sources", namely —

(*i*) dividends,

[25][(*i-a*) income referred to in sub-clause (*viii*) of clause (*24*) of section 2,]

[1][(*i-b*) income referred to in sub-clause (*ix*) of clause (*24*) of section 2,]

(*ii*) income from machinery, plant or furniture belonging to the assessee and let on hire, if the income is not chargeable to income-tax under the head "Profits and gains of business or profession",

(*iii*) where an assessee lets on hire machinery, plant or furniture belonging to him and also buildings, and the letting of the buildings is inseparable from the letting of the said machinery, plant or furniture, the income from such letting, if it is not chargeable to income-tax under the head "Profits and gains of business or profession"

57. Deductions.—The income chargeable under the head "Income from other sources" shall be computed after making the following deductions, namely —

(*i*) in the case of dividends, any reasonable sum paid by way of commission or remuneration to a banker or any other person for the purpose of realising such dividend on behalf of the assessee,

(*ii*) in the case of income of the nature referred to in clauses (*ii*) and (*iii*) of sub-section (2) of section 56, deductions, so far as may be, in accordance with the provisions of sub-clause (*ii*) of clause (*a*) and clause (*c*)

[25] Inserted by s 18, F Act, 1965, w e f 1-4-1965
[1] Inserted by s 10, F Act, 1972, w e f 1-4-1972

of section 30, section 31, and sub-sections (1), [2][(1A)] and (2) of section 32 and subject to the provisions of sections 34 and 38,

(*iii*) any other expenditure (not being in the nature of capital expenditure) laid out or expended wholly and exclusively for the purpose of making or earning such income

58. Amounts not deductible.—[3][(1)] Notwithstanding anything to the contrary contained in section 57, the following amounts shall not be deductible in computing the income chargeable under the head "Income from other sources", namely —

(*a*) in the case of any assessee—

(*i*) any personal expenses of the assessee;

(*ii*) any interest chargeable under this Act which is payable outside India (not being interest on a loan issued for public subscription before the 1st day of April, 1938) on which tax has not been paid or deducted under Chapter XVII-B and in respect of which there is no person in India who may be treated as an agent under section 163,

(*iii*) any payment which is chargeable under the head "Salaries", if it is payable outside India, unless tax has been paid thereon or deducted therefrom under Chapter XVII-B,

[4](*iv*) * * * * *

(*b*) in the case of a company, any expenditure or allowance of the nature referred to in clause (*c*) of section 40, notwithstanding that the amount thereof is included in the total income of any person referred to in sub-clause (*i*) [5]* * of clause (*c*) of section 40

[6][(1A) The provisions of sub-clause (*ii-a*) of clause (*a*) of section 40 shall, so far as may be, apply in computing the income chargeable under the head "Income from other sources" as they apply in computing the income chargeable under the head "Profits and gains of business or profession"]

[7][(2) The provisions of section 40A shall, so far as may be, apply in computing the income chargeable under the head "Income from other sources" as they apply in computing the income chargeable under the head "Profits and gains of business or profession".]

59. Profits chargeable to tax.—(1) The provisions of sub-section (1) of section 41 shall apply, so far as may be, in computing the income of an assessee under section 56, as they apply in computing the income of an assessee under the head "Profits and gains of business or profession"

(2) When any buildings, machinery, plant or furniture to which clauses (*ii*) and (*iii*) of sub-section (2) of section 56 apply are sold, discarded, demolished or destroyed, the provisions of sub-section (2) of section 41 shall apply, so far as may be, in

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2 Inserted by s 14, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

3 Inserted by s 8, F Act, 1968, w e f 1-4-1968, and is deemed always to have been there by s. 3, I T (Amendment) Act, 1972

4 Inserted by s 30 and 3rd Sch, F Act, 1968, w e f 1-4-1969, and omitted by s 12, F (No 2) Act, 1971, w e f 1-4-1972

5 "Or in sub-clause (*iii*)" inserted by s 7, F Act, 1963, w e f 1-4-1963, and omitted by s 30 and 3rd Sch, F Act, 1968, w e f 1-4-1969

6 Retrospectively inserted by s 3, I T. (Amendment) Act, 1972, subject to savings prescribed by s 5 of the Amendment Act regarding certain cases decided by the Supreme Court See p 216, f n 19

7 Inserted by s 8, F Act, 1968, w e. f 1-4-1968.

computing the income of an assessee under section 56 as they apply in computing the income of an assessee under the head "Profits and gains of business or profession".

[8][(3) Where any structure or work referred to in sub-section (1A) of section 32 in or in relation to a building to which clause (iii) of sub-section (2) of section 56 applies is sold, discarded, demolished or destroyed or is surrendered as a result of the determination of the lease or other right of occupancy in respect of the building, the provisions of sub-section (2A) of section 41 shall apply, so far as may be, in computing the income of an assessee under section 56 as they apply in computing the income of an assessee under the head "Profits and gains of business or profession".]

Explanation —For the purpose of this section, the expression "sold" shall have the same meaning as in sub-section (1) of section 32

CHAPTER V

INCOME OF OTHER PERSONS, INCLUDED IN ASSESSEE'S TOTAL INCOME

60. Transfer of income where there is no transfer of assets.—All income arising to any person by virtue of a transfer whether revocable or not and whether effected before or after the commencement of this Act shall, where there is no transfer of the assets from which the income arises, be chargeable to income-tax as the income of the transferor and shall be included in his total income

61. Revocable transfer of assets.—All income arising to any person by virtue of a revocable transfer of assets shall be chargeable to income-tax as the income of the transferor and shall be included in his total income.

62. Transfer irrevocable for a specified period.—(1) The provisions of section 61 shall not apply to any income arising to any person by virtue of a transfer—

(*i*) by way of trust which is not revocable during the lifetime of the beneficiary, and, in the case of any other transfer, which is not revocable during the lifetime of the transferee, or

(*ii*) made before the 1st day of April, 1961, which is not revocable for a period exceeding six years

Provided that the transferor derives no direct or indirect benefit from such income in either case

(2) Notwithstanding anything contained in sub-section (1), all income arising to any person by virtue of any such transfer shall be chargeable to income-tax as the income of the transferor as and when the power to revoke the transfer arises, and shall then be included in his total income.

63. "Transfer" and "revocable transfer" defined.—For the purposes of sections 60, 61 and 62 and of this section,—

(*a*) a transfer shall be deemed to be revocable if—

(*i*) it contains any provision for the retransfer directly or indirectly of the whole or any part of the income or assets to the transferor, or

[8] Inserted by s. 15, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

(ii) it, in any way, gives the transferor a right to reassume power directly or indirectly over the whole or any part of the income or assets;

(b) "transfer" includes any settlement, trust, covenant, agreement or arrangement

64. Income of individual to include income of spouse, minor child, etc.—[9][(1) In computing the total income of any individual, there shall be included all such income as arises directly or indirectly—

(i) to the spouse of such individual from the membership of the spouse in a firm carrying on a business in which such individual is a partner,

(ii) to the spouse of such individual by way of salary, commission, fees or any other form of remuneration whether in cash or in kind from a concern in which such individual has a substantial interest

Provided that nothing in this clause shall apply in relation to any income arising to the spouse where the spouse possesses technical or professional qualifications and the income is solely attributable to the application of his or her technical or professional knowledge and experience,

(iii) to a minor child of such individual from the admission of the minor to the benefits of partnership in a firm,

(iv) subject to the provisions of clause (i) of section 27, in a case not falling under clause (i) of this sub-section, to the spouse of such individual from assets transferred directly or indirectly to the spouse by such individual otherwise than for adequate consideration or in connection with an agreement to live apart,

(v) subject to the provisions of clause (i) of section 27, in a case not falling under sub-clause (iii) of this sub-section, to a minor child (not being a married daughter) of such individual, from assets transferred directly or indirectly to the minor child by such individual otherwise than for adequate consideration,

(vi) to the son's wife, or son's minor child, of such individual, from assets transferred directly or indirectly on or after the 1st day of June, 1973, to the son's wife or son's minor child by such individual otherwise than for adequate consideration, and

(vii) to any person or association of persons from assets transferred directly or indirectly otherwise than for adequate consideration to the person or association of persons by such individual, to the extent to which the income from such assets is for the immediate or deferred benefit of his or her spouse or minor child (not being a married daughter) or both

Explanation 1—For the purposes of clause (i), the individual, in computing whose total income the income referred to in that clause is to be included, shall be the husband or wife whose total income (excluding the income referred to in that clause) is greater, and, for the purposes of clause (iii), the income of the minor child from the partnership shall be included in the income of that parent whose total income (excluding the income referred to in that clause) is greater, and where any such income is once included in the total income of either spouse or parent, any such income arising in any succeeding year shall not be included in the total income of the other spouse or parent

[9] Substituted by s 13, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976

unless the Income-tax Officer is satisfied, after giving that spouse or parent an opportunity of being heard, that it is necessary so to do.

Explanation 2—For the purposes of clause (*ii*), an individual shall be deemed to have a substantial interest in a concern—

(*i*) in a case where the concern is a company, if its shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than twenty per cent of the voting power are, at any time during the previous year, owned beneficially by such person or partly by such person and partly by one or more of his relatives,

(*ii*) in any other case, if such person is entitled, or such person and one or more of his relatives are entitled in the aggregate, at any time during the previous year, to not less than twenty per cent of the profits of such concern

Explanation 3—For the purposes of clauses (*iv*) and (*v*), where the assets transferred directly or indirectly by an individual to his spouse or minor child are invested by the spouse or minor child in any business, that part of the income arising out of the business to the spouse or minor child in any previous year, which bears the same proportion to the income of the spouse or minor child from the business as the value of the assets aforesaid as on the first day of the previous year bears to the total investment in the business by the spouse or the minor child as on the said day, shall be included in the total income of the individual in that previous year]

[10][(2) Where, in the case of an individual being a member of a Hindu undivided family, any property having been the separate property of the individual has, at any time after the 31st day of December, 1969, been converted by the individual into property belonging to the family through the act of impressing such separate property with the character of property belonging to the family or throwing it into the common stock of the family (such property being hereinafter referred to as the converted property), then, notwithstanding anything contained in any other provision of this Act or in any other law for the time being in force, for the purpose of computation of the total income of the individual under this Act for any assessment year commencing on or after the 1st day of April, 1971,—

(*a*) the individual shall be deemed to have transferred the converted property, through the family, to the members of the family for being held by them jointly,

(*b*) the income derived from the converted property or any part thereof [11]* * shall be deemed to arise to the individual and not to the family,

[12][(*c*) where the converted property has been the subject-matter of a partition (whether partial or total) amongst the members of the family, the income derived from such converted property as is received by the spouse or minor child on partition shall be deemed to arise to the spouse or minor child from assets transferred indirectly by the individual to the spouse or minor child and the provisions of sub-section (1) shall, so far as may be, apply accordingly]

Provided that the income referred to in clause (*b*) or clause (*c*) shall, on being included in the total income of the individual, be excluded from the total income of the family or, as the case may be, the spouse or minor [13][child] of the individual

[10] Inserted by s 16, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971
[11] "In so far as it is attributable to the interest of the individual in the property of the family" omitted by s 13, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976
[12] Substituted, *ibid*, w e f 1-4-1976
[13] Substituted for "son", *ibid*, w e f 1-4-1976

Explanation —For the purposes of sub-section (2),—

[14]* "property" includes any interest in property, movable or immovable, the proceeds of sale thereof and any money or investment for the time being representing the proceeds of sale thereof and where the property is converted into any other property by any method, such other property

[14]* * * * *]

65. Liability of person in respect of income included in the income of another person.—Where, by reason of the provisions contained in this Chapter or in clause (*i*) of section 27, the income from any asset or from membership in a firm of a person other than the assessee is included in the total income of the assessee, the person in whose name such asset stands or who is a member of the firm shall, notwithstanding anything to the contrary contained in any other law for the time being in force, be liable, on the service of a notice of demand by the Income-tax Officer in this behalf, to pay that portion of the tax levied on the assessee which is attributable to the income so included, and the provisions of Chapter XVII-D shall, so far as may be, apply accordingly

Provided that where any such asset is held jointly by more than one person, they shall be jointly and severally liable to pay the tax which is attributable to the income from the assets so included

CHAPTER VI

AGGREGATION OF INCOME AND SET OFF OR CARRY FORWARD OF LOSS

Aggregation of income

66. Total income.—In computing the total income of an assessee, there shall be included all income on which no income-tax is payable under Chapter VII [15]* *.

67. Method of computing a partner's share in the income of the firm.—(1) In computing the total income of an assessee who is a partner of a firm, whether the net result of the computation of total income of the firm is a profit or a loss, his share (whether a net profit or a net loss) shall be computed as follows —

(*a*) any interest, salary, commission or other remuneration paid to any partner in respect of the previous year, [16][and, where the firm is a registered firm [17][or an unregistered firm assessed as a registered firm under clause (*b*) of section 183], the income-tax, if any, payable by it in respect of the total income of the previous year,] shall be deducted from the total income of the firm and the balance ascertained and apportioned among the partners,

(*b*) where the amount apportioned to the partner under clause (*a*) is a profit, any salary, interest, commission or other remuneration paid to the partner

[14] "(1)" and cl (2) omitted by s 13, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976

[15] "And any amount in respect of which the assessee is entitled to a deduction from the amount of income-tax on his total income with which he is chargeable for any assessment year in accordance with, and to the extent provided in, sections 87, 87A and 88" omitted by s 33 and 3rd Sch , F (No 2) Act, 1967, w e f 1-4-1968

[16] Inserted by s 30 and 3rd Sch , F Act, 1968, w e f 1-4-1969

[17] Inserted by s 13, F (No 2) Act, 1971, w e f 1-4-1971

by the firm in respect of the previous year shall be added to that amount, and the result shall be treated as the partner's share in the income of the firm,

(c) where the amount apportioned to the partner under clause (a) is a loss, any salary, interest, commission or other remuneration paid to the partner by the firm in respect of the previous year shall be adjusted against that amount, and the result shall be treated as the partner's share in the income of the firm

(2) The share of a partner in the income or loss of the firm, as computed under sub-section (1) shall, for the purposes of assessment, be apportioned under the various heads of income in the same manner in which the income or loss of the firm has been determined under each head of income

(3) Any interest paid by a partner on capital borrowed by him for the purposes of investment in the firm shall, in computing his income chargeable under the head "Profits and gains of business or profession" in respect of his share in the income of the firm, be deducted from the share

(4) If the share of a partner in the income of a registered firm or [18][an unregistered firm assessed as a registered firm under] clause (b) of section 183, as computed under this section, is a loss, such loss may be set off, or carried forward and set off, in accordance with the provisions of this Chapter

Explanation —In this section, "paid" has the same meaning as is assigned to it in clause (2) of section 43

68. Cash credits.—Where any sum is found credited in the books of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the Income-tax Officer, satisfactory, the sum so credited may be charged to income-tax as the income of the assessee of that previous year

69. Unexplained investments.—Where in the financial year immediately preceding the assessment year the assessee has made investments which are not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of the investments or the explanation offered by him is not, in the opinion of the Income-tax Officer, satisfactory, the value of the investments may be deemed to be the income of the assessee of such financial year

[19][**69A. Unexplained money, etc.**—Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and such money, bullion, jewellery or valuable article is not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of acquisition of the money, bullion, jewellery or other valuable article, or the explanation offered by him is not, in the opinion of the Income-tax Officer, satisfactory, the money and the value of the bullion, jewellery or other valuable article may be deemed to be the income of the assessee for such financial year]

[20][**69B. Amount of investments, etc., not fully disclosed in books of account.**—Where in any financial year the assessee has made investments or is found to be the owner of

[18] Substituted for "a firm treated as registered in accordance with the provisions of" by s 13, F (No 2) Act, 1971, w e f 1-4-1971
[19] Inserted by s 16, F Act, 1964, w e f 1-4-1964
[20] Inserted by s 19, F Act, 1965, w e f 1-4-1965

any bullion, jewellery or other valuable article, and the Income-tax Officer finds that the amount expended on making such investments or in acquiring such bullion, jewellery or other valuable article exceeds the amount recorded in this behalf in the books of account maintained by the assessee for any source of income, and the assessee offers no explanation about such excess amount or the explanation offered by him is not, in the opinion of the Income-tax Officer, satisfactory, the excess amount may be deemed to be the income of the assessee for such financial year.]

[21][**69C. Unexplained expenditure, etc.**—Where in any financial year an assessee has incurred any expenditure and he offers no explanation about the source of such expenditure or part thereof, or the explanation, if any, offered by him is not, in the opinion of the Income-tax Officer, satisfactory, the amount covered by such expenditure or part thereof, as the case may be, may be deemed to be the income of the assessee for such financial year]

[22][**69D Amount borrowed or repaid on *hundi*.**—Where any amount is borrowed on a *hundi* from, or any amount due thereon is repaid to, any person otherwise than through an account payee cheque drawn on a bank, the amount so borrowed or repaid shall be deemed to be the income of the person borrowing or repaying the amount aforesaid for the previous year in which the amount was borrowed or repaid, as the case may be

Provided that, if in any case any amount borrowed on a *hundi* has been deemed under the provisions of this section to be the income of any person, such person shall not be liable to be assessed again in respect of such amount under the provisions of this section on repayment of such amount

Explanation —For the purposes of this section, the amount repaid shall include the amount of interest paid on the amount borrowed]

Set off, or carry forward and set off

[23][**70. Set off of loss from one source against income from another source under the same head of income** —(1) Save as otherwise provided in this Act, where the net result for any assessment year in respect of any source falling under any head of income other than "Capital gains" is a loss, the assessee shall be entitled to have the amount of such loss set off against his income from any other source under the same head.

(2) (*i*) Where the result of the computation made for any assessment year under sections 48 to 55 in respect of any short-term capital asset is a loss, the assessee shall be entitled to have the amount of such loss set off against the income, if any, as arrived at under a similar computation made for the assessment year in respect of any other capital asset

(*ii*) Where the result of the computation made for any assessment year under sections 48 to 55 in respect of any capital asset other than a short-term capital asset is a loss, the assessee shall be entitled to have the amount of such loss set off against the income, if any, as arrived at under a similar computation made for the assessment year in respect of any other capital asset not being a short-term capital asset.

71. Set off of loss from one head against income from another.—(1) Where in respect of any assessment year the net result of the computation under any head of income other than "Capital gains" is a loss and the assessee has no income under the head "Capital gains", he shall, subject to the provisions of this Chapter, be entitled

21 Inserted by s 14, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976
22 Inserted, *ibid*, w e f 1-4-1977
23 Substituted by s 5, F (No 2) Act, 1962, w e f 1-4-1962

to have the amount of such loss set off against his income, if any, assessable for that assessment year under any other head

[24][(2) Where in respect of any assessment year the net result of the computation under any head of income other than "Capital gains" is a loss and the assessee has income assessable under the head "Capital gains", such loss may, subject to the provisions of this Chapter, be set off—

(i) against the income, if any, of the assessee assessable for that assessment year under any head including income assessable under the head "Capital gains" (whether relating to short-term capital assets or any other capital assets), or

(ii) if the assessee so desires, only against his income, if any, under the head "Capital gains", in so far as such income relates to short-term capital assets, and income under any other head

(3) Where in respect of any assessment year the net result of the computation under sections 48 to 55 in respect of capital gains relating to short-term capital assets is a loss and the assessee has income assessable under any head of income other than "Capital gains", the assessee shall, subject to the provisions of this Chapter, be entitled to have such loss set off against the income aforesaid]]

72. Carry forward and set off of business losses.—[25][(1) Where for any assessment year, the net result of the computation under the head "Profits and gains of business or profession" is a loss to the assessee, not being a loss sustained in a speculation business, and such loss cannot be or is not wholly set off against income under any head of income in accordance with the provisions of section 71, so much of the loss as has not been so set off or, where the assessee has income only under the head "Capital gains" [1][relating to capital assets other than short-term capital assets] and has exercised the option under sub-section (2) of that section or where he has no income under any other head, the whole loss shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year, and—

(i) it shall be set off against the profits and gains, if any, of any business or profession carried on by him and assessable for that assessment year

Provided that the business or profession for which the loss was originally computed continued to be carried on by him in the previous year relevant for that assessment year, and

(ii) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following assessment year and so on]

[2][Provided that where the whole or any part of such loss is sustained in any such business as is referred to in section 33B which is discontinued in the circumstances specified in that section, and, thereafter, at any time before the expiry of the period of three years referred to in that section, such business is re-established, reconstructed or revived by the assessee, so much of the loss as is attributable to such business shall be carried forward to the assessment year relevant to the previous year in which the business is so re-established, reconstructed or revived, and—

(a) it shall be set off against the profits and gains, if any, of that business or any other business carried on by him and assessable for that assessment year, and

[24] Substituted for sub-s (2) by s 33 and 3rd Sch , F (No 2) Act, 1967, w e f 1-4-1968
[25] Substituted by s 6, F (No 2) Act, 1962, w e f 1-4-1962
[1] Inserted by s 33 and 3rd Sch , F (No 2) Act, 1967, w e f 1-4-1968
[2] Inserted by s 22, *ibid*, w e f 1-4-1967

(b) if the loss cannot be wholly so set off, the amount of loss not so set off shall, in case the business so re-established, reconstructed or revived continues to be carried on by the assessee, be carried forward to the following assessment year and so on for seven assessment years immediately succeeding]

(2) Where any allowance or part thereof is, under sub-section (2) of section 32 or sub-section (4) of section 35, to be carried forward, effect shall first be given to the provisions of this section

(3) No loss [3][(other than the loss referred to in the proviso to sub-section (1) of this section)] shall be carried forward under this section for more than eight assessment years immediately succeeding the assessment year for which the loss was first computed

73. Losses in speculation business.—(1) Any loss, computed in respect of a speculation business carried on by the assessee, shall not be set off except against profits and gains, if any, of another speculation business.

(2) Where for any assessment year any loss computed in respect of a speculation business has not been wholly set off under sub-section (1), so much of the loss as is not so set off or the whole loss where the assessee had no income from any other speculation business, shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year, and—

(i) it shall be set off against the profits and gains, if any, of any speculation business carried on by him assessable for that assessment year, and

(ii) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following assessment year and so on

(3) In respect of allowance on account of depreciation or capital expenditure on scientific research, the provisions of sub-section (2) of section 72 shall apply in relation to speculation business as they apply in relation to any other business.

(4) No loss shall be carried forward under this section for more than eight assessment years immediately succeeding the assessment year for which the loss was first computed

[4][*Explanation* —Where any part of the business of a company (other than an investment company, as defined in clause (ii) of section 109, or a company the principal business of which is the business of banking or the granting of loans and advances) consists in the purchase and sale of shares of other companies, such company shall, for the purposes of this section, be deemed to be carrying on a speculation business to the extent to which the business consists of the purchase and sale of such shares]

[5][**74. Losses under the head "Capital gains".**—(1) (a) Where in respect of any assessment year, the net result of the computation under the head "Capital gains" is a loss, such loss shall, subject to the other provisions of this Chapter, be dealt with as follows :—

(i) such portion of the net loss [6][relating to short-term capital assets as cannot be or is not wholly set off against income under any head in accordance with the provisions of section 71] shall be carried forward to the following

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[3] Inserted by s 22, F (No 2) Act, 1967, w e f 1-4-1967
[4] Inserted by s 15, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1977
[5] Substituted by s 7, F (No 2) Act, 1962, w e f 1-4-1962
[6] Substituted for "as relates to short-term capital assets" by s 33 and 3rd Sch , F (No 2) Act, 1967, w e f 1-4-1968

assessment year and set off against the capital gains, if any, relating to short-term capital assets assessable for that assessment year and, if it cannot be so set off, the amount thereof not so set off shall be carried forward to the following assessment year and so on,

(*ii*) such portion of the net loss as relates to capital assets other than short-term capital assets shall be carried forward to the following assessment year and set off against the capital gains, if any, relating to capital assets other than short-term capital assets assessable for that assessment year and, if it cannot be so set off, the amount thereof not so set off shall be carried forward to the following assessment year and so on

Provided that where, in the case of any assessee not being a company, the net loss computed in respect of such capital assets for any assessment year does not exceed five thousand rupees, it shall not be carried forward under this section.

(*b*) Notwithstanding anything contained in the Indian Income-tax Act, 1922 (XI of 1922), any loss computed under the head "Capital gains" in respect of the assessment year commencing on the 1st day of April, 1961, or any earlier assessment year which is carried forward in accordance with the provisions of sub-section (2B) of section 24 of that Act, shall be dealt with in the assessment year commencing on the 1st day of April, 1962, or any subsequent assessment year as follows —

(*i*) in so far as it relates to short-term capital assets, it shall be carried forward and set off in accordance with the provisions of sub-clause (*i*) of clause (*a*) and sub-section (2), and

(*ii*) in so far as it relates to capital assets other than short-term capital assets, it shall be carried forward and set off in accordance with the provisions of sub-clause (*ii*) of clause (*a*) and sub-section (2)

(2) (*a*) No loss referred to in sub-clause (*i*) of clause (*a*) of sub-section (1) or sub-clause (*i*) or sub-clause (*ii*) of clause (*b*) of that sub-section shall be carried forward under this section for more than eight assessment years immediately succeeding the assessment year for which the loss was first computed under this Act or, as the case may be, the Indian Income-tax Act, 1922 (XI of 1922)

(*b*) No loss referred to in sub-clause (*ii*) of clause (*a*) of sub-section (1) shall be carried forward under this section for more than four assessment years immediately succeeding the assessment year for which the loss was first computed under this Act]

[7][**74A. Losses from certain specified sources falling under the head "Income from other sources".**—(1) Where the net result of the computation made for any assessment year in respect of any source falling under the head "Income from other sources" and being a source specified in sub-section (2), is a loss, such loss shall not be set off [8][against income, if any, from any other source under that head or against income under any other head]

(2) The sources referred to in sub-section (1) are—

(*a*) lotteries,

(*b*) crossword puzzles,

(*c*) races including horse races,

(*d*) card games,

(*e*) other games of any sort,

[7] Inserted by s 11, F Act, 1972, w e f 1-4-1972
[8] Substituted for "except against income, if any, from the same source" by s 6, F. Act, 1974, w e f 1-4-1975

(*f*) gambling or betting of any form or nature whatsoever not falling under any of the foregoing clauses.]

[9][(3) Where for any assessment year, in the case of an assessee, being the owner of horses maintained by him for running in horse races (such horses being hereafter in this sub-section referred to as race horses), the net result of the computation in respect of the source specified in clause (*c*) of sub-section (2) is a loss, then, so much of the amount of such loss as does not exceed the amount of loss incurred by the assessee in the activity of owning and maintaining race horses shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year and—

(*a*) it shall be set off against the income, if any, from the source specified in clause (*c*) of sub-section (2) assessable for that assessment year

Provided that the activity of owning and maintaining race horses is carried on by him in the previous year relevant for that assessment year; and

(*b*) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following assessment year and so on, so, however, that no portion of the loss shall be carried forward for more than four assessment years immediately succeeding the assessment year for which the loss was first computed

Explanation —For the purposes of this sub-section—

(*a*) "amount of loss incurred by the assessee in the activity of owning and maintaining race horses" means—

(*i*) in a case where the assessee has no income by way of stake money, the amount of expenditure (not being in the nature of capital expenditure) laid out or expended by him wholly and exclusively for the purposes of maintaining race horses,

(*ii*) in a case where the assessee has income by way of stake money, the amount by which such income falls short of the amount of expenditure (not being in the nature of capital expenditure) laid out or expended by the assessee wholly and exclusively for the purposes of maintaining race horses,

(*b*) "horse race" means a horse race upon which wagering or betting may be lawfully made,

(*c*) "income by way of stake money" means the gross amount of prize money received on a race horse or race horses by the owner thereof on account of the horse or horses or any one or more of the horses winning or being placed second or in any lower position in horse races]

75. Losses of registered firms.—(1) Where the assessee is a registered firm, any loss which cannot be set off against any other income of the firm shall be apportioned between the partners of the firm, and they alone shall be entitled to have the amount of the loss set off and carried forward for set off under sections 70, 71, 72, [10][73, 74 and 74A]

(2) Nothing contained in sub-section (1) of section 72, sub-section (2) of section 73, [11][sub-section (1) of section 74 or sub-section (3) of section 74A] shall

[9] Inserted by s 6, F Act, 1974, w e f 1-4-1975
[10] Substituted for "73 and 74" by s 12, F Act, 1972, w e f 1-4-1972.
[11] Substituted for "or sub-section (1) of section 74" by s 13, F Act, 1974, w e f 1-4-1975

entitle any assessee, being a registered firm, to have its loss carried forward and set off under the provisions of the aforesaid sections

76. Losses of unregistered firms assessed as registered firms.—In the case of an unregistered firm assessed under the provisions of clause (*b*) of section 183 in respect of any assessment year, its losses for that assessment year shall be dealt with as if it were a registered firm

77. Losses of unregistered firms or their partners.—(1) Where the assessee is an unregistered firm which has not been assessed as a registered firm under the provisions of clause (*b*) of section 183, any loss of the firm shall be set off or carried forward and set off only against the income of the firm.

(2) Where the assessee is a partner of an unregistered firm which has not been assessed as a registered firm under the provisions of clause (*b*) of section 183 and his share in the income of the firm is a loss, then, whether the firm has already been assessed or not—

(*a*) such loss shall not be set off under the provisions of section 70, section 71, [12][sub-section (1) of section 73 or section 74A],

(*b*) nothing contained in sub-section (1) of section 72 or sub-section (2) of section 73 or sub-section (1) of section 74 [13][or sub-section (3) of section 74A] shall entitle the assessee to have such loss carried forward and set off against his own income

78. Carry forward and set off of losses in case of change in constitution of firm or on succession.—(1) Where a change has occurred in the constitution of a firm, nothing in this Chapter shall entitle the firm to have carried forward and set off so much of the loss proportionate to the share of a retired or deceased partner computed in accordance with section 67 as exceeds his share of profits, if any, of the previous year in the firm, or entitle any partner to the benefit of any portion of the said loss which is not apportionable to him under section 67.

(2) Where any person carrying on any business or profession has been succeeded in such capacity by another person otherwise than by inheritance, nothing in this Chapter shall entitle any person other than the person incurring the loss to have it carried forward and set off against his income

79. Carry forward and set off of losses in the case of certain companies.—Notwithstanding anything contained in this Chapter, where a change in shareholding has taken place in a previous year in the case of a company, not being a company in which the public are substantially interested, no loss incurred in any year prior to the previous year shall be carried forward and set off against the income of the previous year unless—

(*a*) on the last day of the previous year the shares of the company carrying not less than fifty-one per cent of the voting power were beneficially held by persons who beneficially held shares of the company carrying not less than fifty-one per cent of the voting power on the last day of the year or years in which the loss was incurred, or

(*b*) the Income-tax Officer is satisfied that the change in the shareholding was not effected with a view to avoiding or reducing any liability to tax.

80. Submission of return for losses.—Notwithstanding anything contained in this Chapter, no loss which has not been determined in pursuance of a return filed under

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[12] Substituted for "or sub-section (1) of section 73" by s 13, F Act, 1972, w e f 1-4-1972
[13] Inserted by s 13, F Act, 1974, w e f 1-4-1975

[15][CHAPTER VI-A

DEDUCTIONS TO BE MADE IN COMPUTING TOTAL INCOME

A —General

80A. Deductions to be made in computing total income.—(1) In computing the total income of an assessee, there shall be allowed from his gross total income, in accordance with and subject to the provisions of this Chapter, the deductions specified in sections 80C to [16][80VV]

(2) The aggregate amount of the deductions under this Chapter shall not, in any case, exceed the gross total income of the assessee

(3) Where, in computing the total income of a firm, association of persons or body of individuals, any deduction is admissible under section 80G [17]* * [18][or section 80HH] or section 80J [19][or section 80JJ] or section 80K [20]* * or [21][section 80QQ or] section 80S or section 80T [22][or section 80TT], no deduction under the same section shall be made in computing the total income of a partner of the firm or, as the case may be, of a member of the association of persons or body of individuals in relation to the share of such partner in the income of the firm or the share of such member in the income of the association of persons or body of individuals.

80B. Definitions.—In this Chapter—

(*1*) [23]* * * * *

R 27 (*2*) "domestic company" means an Indian company, or any other company which, in respect of its income liable to tax under this Act, has made the prescribed arrangements for the declaration and payment, within India, of the dividends (including dividends on preference shares) payable out of such income,

(*3*) [24]* * * * *

(*4*) "foreign company" means a company which is not a domestic company as defined in clause (*2*),

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[14] Inserted by s 13, F Act, 1974, w e f 1-4-1975

[15] Inserted by s. 20, F Act, 1965, w e f 1-4-1965, and substituted by s 33 and 3rd Sch , F (No 2) Act, 1967, w e f 1-4-1968

[16] "80U" substituted for "80T" by s 30 and 3rd Sch , F Act, 1968, w e f 1-4-1969 "80VV" substituted for "80U" by s 16, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976

[17] "Or section 80H" omitted by s 16, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976

[18] Inserted by s 8, Direct Taxes (Amendment) Act, 1974, w e f 1-4-1974

[19] Inserted by s 24, F Act, 1975, w e f 1-4-1976

[20] "Or section 80MM or section 80N or section 80-O" substituted for "or section 80L" by s 14, F (No 2) Act, 1971, w e f 1-4-1972, and omitted by s 13, F Act, 1974, w e f 1-4-1975

[21] Inserted by s 17, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

[22] Inserted by s 14, F Act, 1972, w e f 1-4-1972

[23] Omitted by s 17, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976

[24] Omitted by s 30 and 3rd Sch , F Act, 1968, w e f 1-4-1969

(5) "gross total income" means the total income computed in accordance with the provisions of this Act, before making any deduction under this Chapter or under section 280-O [25]* *,

(6) "income", in relation to a handicapped dependant, means the aggregate income of such person from all sources,

(7) [1]* * * * *

(8) "relative", in relation to an individual, means—

(a) the mother, father, husband or wife of the individual, or

(b) a son, daughter, brother, sister, nephew or niece of the individual, or

(c) a grand-son or grand-daughter of the individual, or

(d) the spouse of any person referred to in sub-clause (b),

(9) [2]* * * * *.

B —Deductions in respect of certain payments

80C. Deduction in respect of life insurance premia, contributions to provident fund, etc.—[3][(1) In computing the total income of an assessee, there shall be deducted, in accordance with and subject to the provisions of this section, an amount calculated, with reference to the aggregate of the sums specified in sub-section (2), at the following rates, namely —

(a) where such aggregate does not exceed Rs 4,000	the whole of such aggregate,
(b) where such aggregate exceeds Rs 4,000 but does not exceed Rs 10,000	Rs 4,000 *plus* 50 per cent of the amount by which such aggregate exceeds Rs 4,000,
(c) where such aggregate exceeds Rs. 10,000	Rs 7,000 *plus* 40 per cent of the amount by which such aggregate exceeds Rs 10,000]

(2) The sums referred to in sub-section (1) shall be the following, namely —

(a) where the assessee is an individual, any sums paid in the previous year by the assessee out of his income chargeable to tax—

(i) to effect or to keep in force an insurance on the life of the assessee or on the life of the wife or husband [4][or any child] of the assessee, or

[5][(ii) to effect or to keep in force a contract for a deferred annuity on the life of the assessee or on the life of the wife or husband or any child of the assessee

Provided that such contract does not contain a provision for the exercise by the insured of an option to receive a cash payment in lieu of the payment of the annuity,] or

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25 "And without applying the provisions of section 64" omitted by s 18, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1968

1 Omitted by s 15, F Act, 1972, w e f 1-4-1973

2 Omitted by s 17, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976

3 Substituted by s 15, F (No 2) Act, 1971, w e f 1-4-1972, then by s 8, F Act, 1973, w e f 1-4-1974, and finally by s 10, F Act, 1975, w e f 1-4-1976

4 Inserted by s 6, F Act, 1969, w e f 1-4-1970

5 Substituted by s 8, F Act, 1973, w e f 1-4-1974

(iii) as a contribution to any provident fund to which the Provident Funds Act, 1925 (XIX of 1925), applies; [6][or]

[7][(iv) as a contribution to any provident fund set up by the Central Government and notified by it in this behalf in the Official Gazette,] [6][or]

[6][(v) as a contribution for participation in the Unit-linked Insurance Plan, 1971 (hereafter in this section referred to as the Unit-linked Insurance Plan) made under section 19(1)(cc) of the Unit Trust of India Act, 1963 (LII of 1963),]

(b) where the assessee is a Hindu undivided family, any sums paid in the previous year by the assessee out of its income chargeable to tax, to effect or to keep in force an insurance on the life of any [8][member of the family];

Explanation—For the purposes of sub-clause (i) of clause (a) and clause (b) of this sub-section, an insurance on the life of any person referred to therein shall include—

(i) a policy of insurance on the life of such person securing the payment of a specified sum on the stipulated date of maturity of the policy, if such person is alive on such date, notwithstanding that the policy of insurance provides only for the return of premiums paid (with or without any interest thereon) in the event of such person dying before the said stipulated date,

(ii) a policy of insurance effected by a person for the benefit of a minor [9]* * with the object of enabling the minor, after he has attained majority, to secure an insurance on his own life by adopting the policy and on his being alive on a date (after such adoption) specified in the policy in this behalf,

(c) any sum deducted in the previous year from the salary payable by or on behalf of the Government to any individual being a sum deducted in accordance with the conditions of his service, for the purpose of securing to him a deferred annuity or making provision for his wife or children, in so far as the sum so deducted does not exceed one-fifth of the salary,

(d) if the assessee is an employee participating in a recognised provident fund, his own contributions to his individual account in the fund in the previous year, in so far as the aggregate of such contributions does not exceed one-fifth of his salary in that previous year or eight thousand rupees, whichever is less;

Explanation—In clause (d) of this sub-section, "salary" shall have the meaning assigned to it in clause (h) of rule 2 of Part A of the Fourth Schedule,

(e) if the assessee is an employee participating in an approved superannuation fund, any sum paid in the previous year by him by way of contribution towards the superannuation fund,

(f) where the assessee is an individual, any sums deposited, in the previous year by the assessee out of his income chargeable to tax, in a ten-year

[6] Inserted by s 16, F Act, 1972, w e f 1-4-1973

[7] Inserted by s 30 and 3rd Sch, F Act, 1968, w e f 1-4-1969.

[8] Substituted for "male member of the family or of the wife of any such member" by s 6, F Act, 1969, w e f 1-4-1970

[9] "(Being the assessee, or a male member of a Hindu undivided family where such family is the assessee)" omitted, *ibid*, w e f 1-4-1970

account or a fifteen-year account under the Post Office Savings Bank (Cumulative Time Deposits) Rules, 1959, as amended from time to time,

[10][(g) where the assessee is an association of persons or a body of individuals consisting only of husband and wife governed by the system of community of property in force in the Union territories of Dadra and Nagar Haveli and Goa, Daman and Diu—

(i) any sums paid in the previous year by the assessee out of its income chargeable to tax—

(1) to effect or to keep in force an insurance on the life of any member of such association or body or on the life of any child of any of the members of such association or body, or

[11][(2) to effect or to keep in force a contract for a deferred annuity on the life of any member of such association or body or any child of any of the members of such association or body

Provided that such contract does not contain a provision for the exercise by the insured of an option to receive a cash payment in lieu of the payment of the annuity, or]

(3) as a contribution to any provident fund referred to in sub-clause (iv) of clause (a), [12][or]

[12][(4) as a contribution for participation by any one member of such association or body in the Unit-linked Insurance Plan,]

(ii) any sums deposited in the previous year by such association or body out of its income chargeable to tax in a 10-year account or a 15-year account under the Post Office Savings Bank (Cumulative Time Deposits) Rules, 1959, as amended from time to time]

(3) The provisions of clauses [13][(a), (b) and (g)] of sub-section (2) shall apply only to so much of any premium or other payment made on a policy other than a contract for a deferred annuity as is not in excess of ten per cent of the actual capital sum assured.

Explanation—In calculating any such capital sum, no account shall be taken—

(i) of the value of any premiums agreed to be returned, or

(ii) of any benefit by way of bonus or otherwise over and above the sum actually assured, which is to be or may be received under the policy by any person

(4) The aggregate of the sums referred to in sub-section (2), which qualifies for the purposes of computing the deduction under sub-section (1), shall not exceed—

(i) in the case of an individual being an author, playwright, artist, musician or actor, such percentage of his gross total income, or such amount, as may be prescribed, **R 11A**

[14]* * * * *

[10] Inserted by s 12, F Act, 1970, w e f 1-4-1971
[11] Substituted by s 8, F Act, 1973, w e f 1-4-1974
[12] Inserted by s 16, F Act, 1972, w e f 1-4-1973
[13] Substituted for "(a) and (b)" by s 12, F Act, 1970, w e f 1-4-1971
[14] The proviso omitted by s 6, F Act, 1969, w e f 1-4-1969

(ii) in the case of any other individual [15]* *, thirty per cent of his gross total income, or [16][twenty] thousand rupees, whichever is less,

(iii) in the case of a Hindu undivided family, thirty per cent of its gross total income, or thirty thousand rupees, whichever is less,

[17][(iv) in the case of an association of persons or a body of individuals referred to in clause (g) of sub-section (2), thirty per cent. of the gross total income of such association or body, or [16][twenty] thousand rupees, whichever is less]

[18][(5) If the assessee participating in the Unit-linked Insurance Plan, or in the case of an assessee being an association of persons or a body of individuals referred to in clause (g) of sub-section (2), the member thereof participating in the Plan, terminates his participation in the Plan (by notice to that effect or where he ceases to participate by reason of failure to pay any contribution, by not reviving his participation) before contributions in respect of such participation have been paid for five years, then—

(a) no deduction shall be allowed to the assessee under this section in respect of the contribution, if any, paid in the previous year in which the participation is so terminated, and

(b) the deductions allowed in respect of the contributions paid in the previous years preceding the previous year referred to in clause (a) shall be deemed to be the income of the assessee of that previous year and shall be chargeable to tax accordingly

Explanation —For the purposes of this sub-section, the deduction allowed under this section in respect of the contribution paid in any previous year shall be the amount by which the deduction allowed under this section for that year exceeds the deduction which would have been allowed for that year if no such contribution had been paid during that year]

80D. Deduction in respect of medical treatment, etc., of handicapped dependants.—(1) Where an assessee who is resident in India, being an individual or Hindu undivided family, who has, during the previous year, incurred out of his or its income chargeable to income-tax, any expenditure for the medical treatment (including nursing) of a person who—

(a) is a relative of the individual, or, as the case may be, is a member of the Hindu undivided family and is not dependent on any person other than such individual or Hindu undivided family for his support or maintenance, and

(b) is suffering from a physical or mental disability which is certified by a registered medical practitioner to have the effect of reducing considerably such person's capacity for normal work or engaging in a gainful employment (hereafter in this section referred to as handicapped dependant),

the assessee shall, in accordance with and subject to the provisions of this section, be allowed a deduction of the amount specified in sub-section (2) in the computation of his total income in respect of the previous year.

(2) The deduction under sub-section (1) shall be—

(i) in a case where the handicapped dependant has, for a period of one hundred and eighty-two days or more during the previous year, been

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15 "(Including an author, playwright, artist, musician or actor, to whom the provisions of clause (i) do not apply)" omitted by s 6, F Act, 1969, w e f 1-4-1969

16 Substituted for "fifteen" by s 15, F. (No 2) Act, 1971, w e f 1-4-1972

17 Inserted by s 12, F Act, 1970, w e f 1-4-1971

18 Inserted by s 16, F Act, 1972, w e f 1-4-1973 The original sub-s (5) omitted by s 30 and 3rd Sch, F Act, 1968, w e f 1-4-1969

admitted in a hospital or a nursing home or a medical institution or in such other institution as may be notified by the Central Government in the Official Gazette to be an institution for the care of handicapped persons, and fees and charges for his medical treatment (including nursing) are payable to such hospital or nursing home or medical or other institution, as the case may be, a sum of two thousand four hundred rupees, or

(*ii*) in any other case, a sum of six hundred rupees,

as reduced, in either case, by an amount equal to the income, if any, of the handicapped dependant in respect of the previous year

Provided that where the assessee has, during the previous year, incurred expenditure on more than one handicapped dependant, the deduction under sub-section (1) shall be allowed only with reference to one such handicapped dependant as may be chosen by the assessee

(3) [19]* * * * *

80E. Deduction in respect of payment for securing retirement annuities.—(1) Where, in the case of an assessee, being an individual who is a citizen of India and is resident in India, his share in the income of a registered firm which renders professional service as chartered accountant, solicitor, lawyer, architect, or such other professional service as may be notified in this behalf by the Central Government in the Official Gazette, is chargeable to tax and he has paid out of his income chargeable to tax a premium (by whatever name called) in any previous year under an annuity contract for the time being approved by the Commissioner as having for its main object the provision for the individual of a life annuity in old age (hereafter in this section referred to as qualifying premium), then the assessee shall, in accordance with and subject to the provisions of this section, be allowed a deduction of the amount of the qualifying premium in the computation of his total income in respect of the previous year

Provided that the amount which may be so deducted shall not exceed the sum of five thousand rupees, or one-tenth of his gross total income, whichever is less

[20]* * * * *

(2) Subject to sub-section (3) and any rules made by the Board in this behalf, the Commissioner shall not approve a contract unless he is satisfied that it does not—

(*a*) provide for the payment during the life of the individual of any sums except sums payable by way of annuity to the individual, or

(*b*) provide for the annuity payable to the individual to commence before he attains the age of fifty-eight or after he attains the age of sixty-eight, or

(*c*) provide for the payment of any other sums except sums payable by way of annuity to the individual's widow or widower and any sums which, in the event of no annuity becoming payable either to the individual or to a widow or widower of the individual, are payable to the individual's legal representative by way of return of premiums, by way of reasonable interest on premiums and by way of bonus out of profits, or

(*d*) provide for the payment of annuity, if any, payable to a widow or widower of the individual to be of a greater annual amount than that paid or payable to the individual, or

(*e*) provide for the payment of any annuity otherwise than for the life of the annuitant,

[19] Omitted by s 30 and 3rd Sch, F Act, 1968, w e f 1-4-1969
[20] The proviso omitted, *ibid*, w e f 1-4-1969

and that it does include a provision that no annuity payable under it shall be capable in whole or in part of surrender, commutation or assignment

(3) The Commissioner may, if he thinks fit, and subject to any conditions the Board may, by rules, prescribe and subject to any conditions he thinks proper to impose, approve a contract, notwithstanding that the contract provides for one or more of the following matters, that is to say,—

(*a*) for the payment after the individual's death of an annuity to a dependant other than the widow or widower of the individual,

(*b*) for the payment to the individual of an annuity commencing before he attains the age of fifty-eight, if the annuity is payable on his becoming incapable through infirmity of mind or body of being actively engaged in his profession or any profession of a similar nature for which he is trained or fitted,

(*c*) for the annuity payable to any person to continue for a specified term (not exceeding ten years), notwithstanding his death within that term,

(*d*) in the case of an annuity which is to continue for such specified term, for the annuity to be assignable by will

(4) The foregoing provisions of this section shall apply in relation to a contribution (by whatever name called) to a fund approved by the Commissioner as they apply in relation to any premium under an annuity contract so approved, provided the fund satisfies also the conditions set out below and any other conditions which the Board may, by rules, prescribe, namely —

(*a*) the fund shall be a fund established in India under an irrevocable trust for the benefit of individuals engaged in any profession referred to in sub-section (1),

(*b*) the fund shall have for its sole purpose the provision of annuities for individuals engaged in such profession on attaining a specified age or on their becoming incapacitated prior to attaining such age, or for the widow, children or dependants of such persons on their death,

(*c*) all annuities, pensions and other benefits granted from the fund shall be payable only in India

(5) The Commissioner may, at any time, after giving a reasonable opportunity of showing cause against the proposed withdrawal to the persons by and to whom premiums are payable under any contract for the time being approved under this section, or to the trustees of any fund so approved, withdraw the approval

(6) Notwithstanding anything contained in sub-sections (1) and (4), no deduction under this section shall be allowed in the case of any individual—

[21][(*i*) whose gross total income includes income which is chargeable under the head "Interest on securities", or "Income from house property", or "Capital gains", or any income chargeable under the head "Income from other sources" in so far as it is not immediately derived from personal exertion of the individual, and the aggregate amount of all such income is more than ten thousand rupees, or]

(*ii*) who is entitled to any pension or is participating in any pension or superannuation scheme

[22][(7) The amount of deduction under this section shall not in any case exceed the amount of the income computed under the head "Profits and gains of business or profession" included in the gross total income]

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[21] Substituted by s 30 and 3rd Sch, F Act, 1968, w e f 1-4-1969
[22] Substituted, *ibid*, w e f 1-4-1969

(8) [23]* * * * *

(9) Where any payment by way of annuity or otherwise is made by a person to whom premiums or contributions are payable under sub-section (1) or sub-section (4), such person shall, subject to any rules made by the Board in this behalf, deduct from the total amount so paid during any financial year, tax at such rate or rates in force in that year as would be applicable to such amount, if it were the total income and shall pay the amount so deducted to the credit of the Central Government within the prescribed time and in such manner as the Board may direct and the provisions of section 201 shall, so far as may be, apply to such person if he does not deduct, or after deducting fails to pay, such tax

(10) Where a deduction under this section is claimed and allowed for any assessment year in respect of any payment, relief shall not be given in respect of it under any other provision of this Act for the same or a later assessment year nor (in the case of a payment under an annuity contract) in respect of any other premium or consideration for an annuity under the same contract

(11) (*a*) The Board may, by notification in the Official Gazette, make rules for carrying out the purposes of this section

(*b*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*i*) prescribe the statements and other information to be submitted along with an application for approval,

(*ii*) prescribe the returns, statements, particulars or information which the Income-tax Officer may require from a person by and to whom premiums or contributions are payable under this section,

(*iii*) provide for the assessment by way of penalty of any consideration received by an individual for an assignment of, or creation of a charge upon, any annuity or other sum receivable by him under any contract or from any fund approved for the time being under this section, and

(*iv*) provide for securing such further control over the approval granted under this section and administration of funds approved under this section as it may deem requisite

80F. Deduction in respect of educational expenses in certain cases.—(1) Where an individual, being a resident, who is not a citizen of India, has expended any sum in the previous year out of his income chargeable to tax for the full time education of his child wholly or mainly dependent on him and who is not more than twenty-one years of age, at any University, college, school or other educational institution situate in a country outside India, he shall, in accordance with and subject to the provisions of this section, be allowed a deduction of the amount specified in sub-section (2) in the computation of his total income

(2) The amount referred to in sub-section (1) shall be—

(*i*) in the case of an individual who has one such child, one thousand five hundred rupees, and

(*ii*) in the case of an individual who has more than one such child, three thousand rupees

(3) [24]* * * * *

[25][**80FF. Deduction in respect of expenses on higher education in certain cases.**—(1) Where an individual, who is a citizen of India and whose gross total income does not

[23] Omitted by s 30 and 3rd Sch , F Act, 1968, w e f 1-4-1969
[24] Omitted, *ibid*, w e f 1-4-1969
[25] Inserted by s 11, F. Act, , w e f 1-4-1976

exceed twelve thousand rupees, has expended any sum during the previous year out of his income chargeable to tax for the full time education of a dependant, he shall, in accordance with and subject to the provisions of this section, be allowed a deduction of the amount specified in sub-section (2) in the computation of his total income

(2) The amount referred to in sub-section (1) shall be—

(*i*) in a case where the individual has a dependant undergoing a degree or post-graduate course in medicine (including surgery and obstetrics) or architecture or engineering or technology or business management, one thousand rupees in respect of each such dependant, and

(*ii*) in a case where the individual has a dependant undergoing a diploma course in medicine (including surgery and obstetrics) or architecture or engineering or technology or business management, or undergoing any degree or post-graduate course, other than a degree or post-graduate course referred to in clause (*i*), five hundred rupees in respect of each such dependant

Provided that where the individual has, during the previous year, incurred expenditure on the education of more than two dependants as aforesaid, the deduction under sub-section (1) shall be allowed only with reference to two such dependants as may be chosen by him

Explanation —For the purposes of this sub-section,—

(*a*) "dependant", in relation to an individual, means a child, brother or sister of the individual, wholly or mainly dependent on the individual,

(*b*) "degree course", "post-graduate course" and "diploma course" include respectively any course of study for obtaining a qualification, which, though not described as a degree or post-graduate qualification or diploma, is recognised for purposes of employment under the Central Government as equivalent to a degree, post-graduate qualification or diploma]

80G. Deduction in respect of donations to certain funds, charitable institutions, etc.—[1][(1) In computing the total income of an assessee, there shall be deducted, in accordance with and subject to the provisions of this section, an amount equal to fifty per cent of the aggregate of the sums specified in sub-section (2).]

(2) The sums referred to in sub-section (1) shall be the following, namely —

(*a*) any sums paid by the assessee in the previous year as donations to—

(*i*) the National Defence Fund set up by the Central Government, or

(*ii*) the Jawaharlal Nehru Memorial Fund referred to in the Deed of Declaration of Trust adopted by the National Committee at its meeting held on the 17th day of August, 1964; or

(*iii*) the Prime Minister's Drought Relief Fund, or

[2][(*iii-a*) the Prime Minister's National Relief Fund, or]

(*iv*) any other fund or any institution to which this section applies, or

(*v*) the Government or any local authority, to be utilised for any charitable purpose,

(*b*) any sums paid by the assessee in the previous year as donations for the renovation or repair of any such temple, mosque, gurdwara, church or other place as is notified by the Central Government in the Official

[1] Substituted by s 18, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976
[2] Inserted by s 2, I T (Amendment) Act, 1976, w. e f 9-9-1975

Gazette to be of historic, archaeological or artistic importance or to be a place of public worship of renown throughout any State or States

(3) No deduction shall be allowed under sub-section (1) if the aggregate of the sums referred to in sub-section (2) is less than two hundred and fifty rupees

(4) The deduction under sub-section (1) shall not be allowed in respect of such part of the aggregate of the sums referred to in sub-clauses (*iv*) and (*v*) of clause (*a*) and in clause (*b*) of sub-section (2) as exceeds ten per cent of the gross total income (as reduced by any portion thereof on which income-tax is not payable under any provision of this Act and by any amount in respect of which the assessee is entitled to a deduction under any other provision of this Chapter), or two hundred thousand rupees, whichever is less

[3][Provided that where such aggregate includes any donations referred to in clause (*b*) of sub-section (2) and such aggregate exceeds the limit of two hundred thousand rupees specified in this sub-section, then such limit shall be raised to cover that portion of the donations aforesaid which is equal to the difference between such aggregate and the said limit, so, however, that the limit so raised shall not exceed ten per cent of the assessee's gross total income as reduced as aforesaid, or five hundred thousand rupees, whichever is less]

(5) This section applies to donations to any institution or fund referred to in sub-clause (*iv*) of clause (*a*) of sub-section (2), only if it is established in India for a charitable purpose and if it fulfils the following conditions, namely —

(*i*) where the institution or fund derives any income, such income would not be liable to inclusion in its total income under the provisions of sections 11 and 12 or clause (*22*) [4][or clause (*22A*)] [5][or clause (*23*)] [6][or clause (*23C*)] of section 10,

(*ii*) the instrument under which the institution or fund is constituted does not, or the rules governing the institution or fund do not, contain any provision for the transfer or application at any time of the whole or any part of the income or assets of the institution or fund for any purpose other than a charitable purpose,

(*iii*) the institution or fund is not expressed to be for the benefit of any particular religious community or caste,

(*iv*) the institution or fund maintains regular accounts of its receipts and expenditure, and

(*v*) the institution or fund is either constituted as a public charitable trust or is registered under the Societies Registration Act, 1860 (XXI of 1860), or under any law corresponding to that Act in force in any part of India or under section 25 of the Companies Act, 1956 (I of 1956), or is a University established by law, or is any other educational institution recognised by the Government or by a University established by law, or affiliated to any University established by law, [7][or is an institution approved by the Central Government for the purposes of clause (*23*) of section 10,] or is an institution financed wholly or in part by the Government or a local authority

Explanation 1 —An institution or fund established for the benefit of Scheduled Castes, backward classes, Scheduled Tribes or of women and children shall not be

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[3] Substituted by s 19, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1968
[4] Inserted by s 13, F Act, 1970, w e f 1-4-1970
[5] Inserted by s 9, F Act, 1973, w e f 1-4-1974
[6] Inserted by s 18, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976
[7] Inserted by s 9, F Act, 1973, w e f 1-4-1974

deemed to be an institution or fund expressed to be for the benefit of a religious community or caste within the meaning of clause (*iii*) of sub-section (5)

[8][*Explanation 2*.—For the removal of doubts, it is hereby declared that a deduction to which the assessee is entitled in respect of any donation made to an institution or fund to which sub-section (5) applies shall not be denied merely on either or both of the following grounds, namely —

(*i*) that, subsequent to the donation, any part of the income of the institution or fund has become chargeable to tax due to non-compliance with any of the provisions of section 11, [9][section 12 or section 12A],

(*ii*) that, under clause (*c*) of sub-section (1) of section 13, the exemption under section 11 [9][or section 12] is denied to the institution or fund in relation to any income arising to it from any investment referred to in clause (*h*) of sub-section (2) of section 13 where the aggregate of the funds invested by it in a concern referred to in the said clause (*h*) does not exceed five per cent of the capital of that concern]

Explanation 3 —In this section, "charitable purpose" does not include any purpose the whole or substantially the whole of which is of a religious nature

[10][*Explanation 4* —For the purposes of this section, an association approved by the Central Government for the purposes of clause (*23*) of section 10 shall also be deemed to be an institution, and every association or institution approved by the Central Government for the purposes of the said clause shall be deemed to be an institution established in India for a charitable purpose.]

(6) [11]* * * * *

[12][**80GG. Deduction in respect of rents paid.**—In computing the total income of an assessee, not being an assessee having any income falling within clause (*13A*) of section 10, there shall be deducted any expenditure incurred by him in excess of ten per cent. of his total income towards payment of rent (by whatever name called) in respect of any furnished or unfurnished accommodation occupied by him for the purposes of his own residence, to the extent to which such excess expenditure does not exceed three hundred rupees per month or fifteen per cent of his total income for the year, whichever is less, and subject to such other conditions or limitations as may be prescribed, having regard to the area or place in which such accommodation is situated and other relevant considerations

Provided that nothing in this section shall apply to an assessee in any case where any residential accommodation is owned by him or by his spouse or minor child, or, where such assessee is a member of a Hindu undivided family, by such family

Explanation —In this section, the expressions "ten per cent of his total income" and "fifteen per cent of his total income" shall mean ten per cent. or fifteen per cent, as the case may be, of the assessee's total income before allowing deduction for any expenditure under this section]

C—Deductions in respect of certain incomes

80H.—*Omitted by s 20 of the Taxation Laws (Amendment) Act, 1975, with effect from 1st April 1976*

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8 Substituted by s 13, F Act, 1970, w e f 1-4-1971
9 Inserted by s 17, F Act, 1972, w e f 1-4-1973
10 Inserted by s 9, F Act, 1973, w e f 1-4-1974
11 Omitted by s 30 and 3rd Sch, F Act, 1968, w e f 1-4-1969
12 Inserted by s 19, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976

[13][80HH. **Deduction in respect of profits and gains from newly established industrial undertakings or hotel business in backward areas.**—(1) Where the gross total income of an assessee includes any profits and gains derived from an industrial undertaking, or the business of a hotel, to which this section applies, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such profits and gains of an amount equal to twenty per cent thereof

(2) This section applies to any industrial undertaking which fulfils all the following conditions, namely —

(*i*) it has begun or begins to manufacture or produce articles after the 31st day of December, 1970, in any backward area,

(*ii*) it is not formed by the splitting up, or the reconstruction, of a business already in existence in any backward area

Provided that this condition shall not apply in respect of any industrial undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such industrial undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section,

(*iii*) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose in any backward area,

(*iv*) it employs ten or more workers in a manufacturing process carried on with the aid of power, or employs twenty or more workers in a manufacturing process carried on without the aid of power

Explanation —Where any machinery or plant or any part thereof previously used for any purpose in any backward area is transferred to a new business in that area or in any other backward area and the total value of the machinery or plant or part so transferred does not exceed twenty per cent. of the total value of the machinery or plant used in the business, then, for the purposes of clause (*iii*) of this sub-section, the condition specified therein shall be deemed to have been fulfilled.

(3) This section applies to the business of any hotel, where all the following conditions are fulfilled, namely —

(*i*) the business of the hotel has started or starts functioning after the 31st day of December, 1970, in any backward area,

(*ii*) the business of the hotel is not formed by the splitting up, or the reconstruction, of a business already in existence,

(*iii*) the hotel is for the time being approved for the purposes of this sub-section by the Central Government

(4) The deduction specified in sub-section (1) shall be allowed in computing the total income in respect of each of the ten assessment years beginning with the assessment year relevant to the previous year in which the industrial undertaking begins to manufacture or produce articles or the business of the hotel starts functioning

Provided that,—

(*i*) in the case of an industrial undertaking which has begun to manufacture or produce articles, and

(*ii*) in the case of the business of a hotel which has started functioning,

[13] Inserted by s 9, Direct Taxes (Amendment) Act, 1974, w e f 1-4-1974

after the 31st day of December, 1970, but before the 1st day of April, 1973, this sub-section shall have effect as if the reference to ten assessment years were a reference to ten assessment years as reduced by the number of assessment years which expired before the 1st day of April, 1974

R 18B (5) Where the assessee is a person other than a company or a co-operative society, the deduction under sub-section (1) shall not be admissible unless the accounts of the industrial undertaking or the business of the hotel for the previous year relevant to the assessment year for which the deduction is claimed have been audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288 and the assessee furnishes, along with his return of income, the report of such audit in the prescribed form duly signed and verified by such accountant

(6) Where any goods held for the purposes of the business of the industrial undertaking or the hotel are transferred to any other business carried on by the assessee, or where any goods held for the purposes of any other business carried on by the assessee are transferred to the business of the industrial undertaking or the hotel and, in either case, the consideration, if any, for such transfer as recorded in the accounts of the business of the industrial undertaking or the hotel does not correspond to the market value of such goods as on the date of the transfer, then, for the purposes of the deduction under this section, the profits and gains of the industrial undertaking or the business of the hotel shall be computed as if the transfer, in either case, had been made at the market value of such goods as on that date

Provided that where, in the opinion of the Income-tax Officer, the computation of the profits and gains of the industrial undertaking or the business of the hotel in the manner hereinbefore specified presents exceptional difficulties, the Income-tax Officer may compute such profits and gains on such reasonable basis as he may deem fit

Explanation —In this sub-section, "market value" in relation to any goods means the price that such goods would ordinarily fetch on sale in the open market

(7) Where it appears to the Income-tax Officer that, owing to the close connection between the assessee carrying on the business of the industrial undertaking or the hotel to which this section applies and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the assessee more than the ordinary profits which might be expected to arise in the business of the industrial undertaking or the hotel, the Income-tax Officer shall, in computing the profits and gains of the industrial undertaking or the hotel for the purposes of the deduction under this section, take the amount of profits as may be reasonably deemed to have been derived therefrom

(8) [14]* * * * *

(9) In a case where the assessee is entitled also to the deduction under section 80J in relation to the profits and gains of an industrial undertaking or the business of a hotel to which this section applies, effect shall first be given to the provisions of this section

(10) Nothing contained in this section shall apply in relation to any undertaking engaged in mining

Explanation —In this section, "backward area" means an area specified in the list in the Eighth Schedule]

80-I.—*Omitted by s 18 of the Finance Act, 1972, with effect from 1st April 1973.*

[14] Omitted by s 21, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976.

80J. Deduction in respect of profits and gains from newly established industrial undertakings or ships or hotel business in certain cases.—(1) Where the gross total income of an assessee includes any profits and gains derived from an industrial undertaking or a ship or the business of a hotel, to which this section applies, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such profits and gains [15][(reduced by the deduction, if any, admissible to the assessee under section 80HH)] of so much of the amount thereof as does not exceed the amount calculated at the rate of six per cent per annum on the capital employed in the industrial undertaking or ship or business of the hotel, as the case may be, computed in the prescribed manner in respect of the previous year relevant to the assessment year (the amount calculated as aforesaid being hereafter, in this section, referred to as the relevant amount of capital employed during the previous year) R 19A

[16][Provided that in relation to the profits and gains derived by an assessee, being a company, from an industrial undertaking which begins to manufacture or produce articles or to operate its cold storage plant or plants after the 31st day of March, 1976, or from a ship which is first brought into use after that date, or from the business of a hotel which starts functioning after that date, the provisions of this sub-section shall have effect as if for the words "six per cent.", the words "seven and a half per cent " had been substituted]

(2) The deduction specified in sub-section (1) shall be allowed in computing the total income in respect of the assessment year relevant to the previous year in which the industrial undertaking begins to manufacture or produce articles or to operate its cold storage plant or plants or the ship is first brought into use or the business of the hotel starts functioning (such assessment year being hereafter, in this section, referred to as the initial assessment year) and each of the four assessment years immediately succeeding the initial assessment year

Provided that in the case of an assessee, being a co-operative society, the provisions of this sub-section shall have effect as if for the words "four assessment years", the words "six assessment years" had been substituted.

(3) Where the amount of the profits and gains derived from the industrial undertaking or ship or business of the hotel, as the case may be, included in the total income (as computed without applying the provisions of section 64 and before making any deduction under Chapter VI-A or section 280-O) in respect of the previous year relevant to an assessment year commencing on or after the 1st day of April, 1967, (not being an assessment year prior to the initial assessment year or subsequent to the fourth assessment year as reckoned from the end of the initial assessment year) falls short of the relevant amount of capital employed during the previous year, the amount of such shortfall, or, where there are no such profits and gains, an amount equal to the relevant amount of capital employed during the previous year (such amount, in either case, being hereafter, in this section, referred to as deficiency) shall be carried forward and set off against the profits and gains referred to in sub-section (1) (as computed after allowing the deductions, if any, admissible under [17]* * [18][section 80HH] [19]* * and the said sub-section (1)) in respect of the previous year relevant to the next following assessment year and, if there are no such profits and gains for that assessment year, or where the deficiency exceeds such profits and gains, the whole or balance

[15] Substituted for "(reduced by the aggregate of the deductions, if any, admissible to the assessee under section 80H and section 80HH)" by s 22, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976.
[16] Inserted by s 12, F Act, 1975, w e f 1-4-1976
[17] "Section 80H" omitted by s 22, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976
[18] Inserted by s 10, Direct Taxes (Amendment) Act, 1974, w e f. 1-4-1974
[19] "Section 80-I" omitted by s 19, F. Act, 1972, w e f 1-4-1973

of the deficiency, as the case may be, shall be set off against such profits and gains for the next following assessment year and if and so far as such deficiency cannot be wholly so set off, it shall be set off against such profits and gains assessable for the next following assessment year and so on

Provided that—

(*i*) in no case shall the deficiency or any part thereof be carried forward beyond the seventh assessment year as reckoned from the end of the initial assessment year,

(*ii*) where there is more than one deficiency and each such deficiency relates to a different assessment year, the deficiency which relates to an earlier assessment year shall be set off under this sub-section before setting off the deficiency in relation to a later assessment year

Provided further that in the case of an assessee being a co-operative society, the provisions of this sub-section shall have effect as if for the words "fourth assessment year", the words "sixth assessment year" had been substituted.

(4) This section applies to any industrial undertaking which fulfils all the following conditions, namely —

(*i*) it is not formed by the splitting up, or the reconstruction, of a business already in existence,

(*ii*) it is not formed by the transfer to a new business of [20]* * machinery or plant previously used for any purpose,

(*iii*) it manufactures or produces articles, or operates one or more cold storage plant or plants, in any part of India, and has begun or begins to manufacture or produce articles or to operate such plant or plants, at any time within the period of [21][thirty-three] years next following the 1st day of April, 1948, or such further period as the Central Government may, by notification in the Official Gazette, specify with reference to any particular industrial undertaking,

(*iv*) in a case where the industrial undertaking manufactures or produces articles, the undertaking employs ten or more workers in a manufacturing process carried on with the aid of power, or employs twenty or more workers in a manufacturing process carried on without the aid of power.

Provided that the condition in clause (*i*) shall not apply in respect of any industrial undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such industrial undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section

[22][Provided further that, where any building or any part thereof previously used for any purpose is transferred to the business of the industrial undertaking, the value of the building or part so transferred shall not be taken into account in computing the capital employed in the industrial undertaking

Explanation 1 —For the purposes of clause (*ii*) of this sub-section, any machinery or plant which was used outside India by any person other than the assessee shall not

[20] "A building (not being a building taken on rent or lease)," omitted by s 12, F Act, 1975, w e f 1-4-1976

[21] "Twenty-eight" substituted for "twenty-three" by s 7, F Act, 1969, w e f 1-4-1969, and "thirty-three" for "twenty-eight" by s 12, F Act, 1975, w e f 1-4-1975

[22] Inserted by s 12, F Act, 1975, w e f 1-4-1976

be regarded as machinery or plant previously used for any purpose, if the following conditions are fulfilled, namely·—

(a) such machinery or plant was not, at any time, previous to the date of the installation by the assessee, used in India,

(b) such machinery or plant is imported into India from any country outside India, and

(c) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of the Indian Income-tax Act, 1922 (XI of 1922), or this Act in computing the total income of any person for any period prior to the date of the installation of the machinery or plant by the assessee.

Explanation 2.—Where in the case of an industrial undertaking, any machinery or plant or any part thereof previously used for any purpose is transferred to a new business and the total value of the machinery or plant or part so transferred does not exceed twenty per cent of the total value of the machinery or plant used in the business, then, for the purposes of clause (ii) of this sub-section, the condition specified therein shall be deemed to have been complied with and the total value of the machinery or plant or part so transferred shall not be taken into account in computing the capital employed in the industrial undertaking]

(5) This section applies to any ship, where all the following conditions are fulfilled, namely —

(i) it is owned by an Indian company and is wholly used for the purposes of the business carried on by it,

(ii) it was not, previous to the date of its acquisition by the Indian company, owned and used in Indian territorial waters by a person resident in India, and

(iii) it is brought into use by the Indian company at any time within a period of [23][thirty-three] years next following the 1st day of April, 1948

(6) This section applies to the business of any hotel, where all the following conditions are fulfilled, namely —

(a) the business of the hotel [24]* * is not formed by the splitting up, or the reconstruction, of a business already in existence or by the transfer to a new business of a building previously used as a hotel or of any machinery or plant previously used for any purpose,

(b) the business of the hotel is owned and carried on by a company registered in India with a paid-up capital of not less than five hundred thousand rupees,

(c) [25]* * * * *

(d) the hotel is for the time being approved for the purposes of this sub-section by the Central Government,

[1][(e) the business of the hotel starts functioning on or after the 1st day of April, 1961, but before the 1st day of April, 1981]

[23] "Twenty-eight" substituted for "twenty-three" by s 7, F Act, 1969, w. e f 1-4-1969, and "thirty-three" for "twenty-eight" by s 12, F Act, 1975, w e f 1-4-1975

[24] "Starts functioning on or after the 1st day of April, 1961, and" omitted by s 12, F Act, 1975, w e f 1-4-1975

[25] Omitted by s 10, F Act, 1973, w e f 1-4-1974

[1] Inserted by s 12, F Act, 1975, w e f 1-4-1975

[2][*Explanation*—Where in the case of the business of a hotel, any building, or any part thereof, previously used as a hotel, or any machinery or plant, or any part thereof, previously used for any purpose, is transferred to a new business and the total value of the building, machinery or plant or part so transferred does not exceed twenty per cent of the total value of the building, machinery or plant used in the business, then, for the purposes of clause (*a*) of this sub-section, the condition specified therein shall be deemed to have been complied with and the total value of the building, machinery or plant or part so transferred shall not be taken into account in computing the capital employed in the business of the hotel]

[3][(6A) Where the assessee is a person other than a company or a co-operative society, the deduction under sub-section (1) from profits and gains derived from an industrial undertaking shall not be admissible unless the accounts of the industrial undertaking for the previous year relevant to the assessment year for which the deduction is claimed have been audited by an accountant, as defined in the *Explanation* below sub-section (2) of section 288, and the assessee furnishes, along with his return of income, the report of such audit in the prescribed form duly signed and verified by such accountant

(6B) Where any goods held for the purposes of the business of the industrial undertaking or the hotel or the operation of the ship are transferred to any other business carried on by the assessee, or where any goods held for the purposes of any other business carried on by the assessee are transferred to the business of the industrial undertaking or the hotel or the operation of the ship and, in either case, the consideration, if any, for such transfer as recorded in the accounts of the business of the industrial undertaking or the hotel or the operation of the ship does not correspond to the market value of such goods as on the date of the transfer, then, for the purposes of the deduction under this section, the profits and gains of the industrial undertaking or the business of the hotel or the operation of the ship shall be computed as if the transfer, in either case, had been made at the market value of such goods as on that date

Provided that where, in the opinion of the Income-tax Officer, the computation of the profits and gains of the industrial undertaking or the business of the hotel or the operation of the ship in the manner hereinbefore specified presents exceptional difficulties, the Income-tax Officer may compute such profits and gains on such reasonable basis as he may deem fit

Explanation—In this sub-section, "market value", in relation to any goods, means the price that such goods would ordinarily fetch on sale in the open market

(6C) Where it appears to the Income-tax Officer that, owing to the close connection between the assessee carrying on the business of the industrial undertaking or the hotel or the operation of the ship to which this section applies and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the assessee more than the ordinary profits which might be expected to arise in the business of the industrial undertaking or the hotel or the operation of the ship, the Income-tax Officer shall, in computing the profits and gains of the industrial undertaking or the hotel or the ship for the purposes of the deduction under this section, take the amount of profits as may be reasonably deemed to have been derived therefrom]

(7) The Central Government may, after making such inquiry as it may think fit, direct, by notification in the Official Gazette, that the exemption conferred by this

[2] Substituted by s 12, F Act, 1975, w e f 1-4-1976
[3] Inserted, *ibid*, w e f 1-4-1976

section shall not apply to any class of industrial undertakings with effect from such date as it may specify in the notification.

[4][**80JJ. Deduction in respect of profits and gains from business of live-stock breeding or poultry or dairy farming.**—Where the gross total income of an assessee includes any profits and gains derived from a business of live-stock breeding, or poultry or dairy farming, there shall be allowed, in computing the total income of the assessee, a deduction as specified hereunder, namely —

(*a*) in a case where the amount of such profits and gains does not exceed, in the aggregate, ten thousand rupees, the whole of such amount, and

(*b*) in any other case, one-third of the aggregate amount of such profits and gains or ten thousand rupees, whichever is higher]

[5][**80K. Deduction in respect of dividends attributable to profits and gains from new industrial undertakings or ships or hotel business.**—Where the gross total income of an assessee, being— R 20

(*a*) the owner of any share or shares in a company, or

(*b*) a person who is chargeable to tax under this Act on the income by way of dividends on any share or shares in a company owned by any other person,

includes any income by way of dividends paid or deemed to have been paid by the company in respect of such share or shares, there shall, subject to any rules that may be made by the Board in this behalf, be allowed, in computing his total income, a deduction from such income by way of dividends of an amount equal to such part thereof as is attributable to the profits and gains derived by the company from an industrial undertaking or ship or the business of a hotel, on which no tax is payable by the company under this Act for any assessment year commencing prior to the 1st day of April, 1968, or in respect of which the company is entitled to a deduction under section 80J for the assessment year commencing on the 1st day of April, 1968, or for any subsequent assessment year·

[6][Provided that no deduction under this section shall be allowed in respect of any income by way of dividends which is attributable to the profits and gains derived by the company from an industrial undertaking which begins to manufacture or produce articles or to operate its cold storage plant or plants after the 31st day of March, 1976, or from a ship which is first brought into use after that date or from the business of a hotel which starts functioning after that date]]

[7][**80L. Deductions in respect of interest on certain securities, dividends, etc.**—(1) Where the gross total income of an assessee, [8][being—

(*a*) an individual, or

(*b*) a Hindu undivided family, or

(*c*) an association of persons or a body of individuals consisting only of husband and wife governed by the system of community of property in force in the Union territories of Dadra and Nagar Haveli and Goa, Daman and Diu,]

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[4] Inserted by s 13, F Act, 1975, w. e. f 1-4-1976
[5] Substituted by s 20, Taxation Laws (Amendment) Act, 1970, w e f. 1-4-1968
[6] Inserted by s 14, F Act, 1975, w e f. 1-4-1975
[7] Substituted by s 14, F Act, 1970, w e f 1-4-1971.
[8] Inserted by s 17, F (No. 2) Act, 1971, w e f 1-4-1972

includes any income by way of—

(*i*) interest on any security of the Central Government or a State Government (not being interest payable under section 280D in respect of any annuity deposit made under Chapter XXII-A),

(*ii*) interest on such debentures, issued by any co-operative society (including a co-operative land mortgage bank or a co-operative land development bank) or any other institution or authority, as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(*iii*) interest on deposits under any scheme framed by the Central Government and notified by it in this behalf in the Official Gazette,

(*iv*) dividends from any Indian company,

(*v*) income received in respect of units from the Unit Trust of India established under the Unit Trust of India Act, 1963 (LII of 1963),

(*vi*) interest on deposits with a banking company to which the Banking Regulation Act, 1949 (X of 1949), applies (including any bank or banking institution referred to in section 51 of that Act) or a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank);

(*vii*) interest on deposits with a financial corporation which is engaged in providing long-term finance for industrial development in India and which is approved by the Central Government for the purposes of clause (*viii*) of sub-section (1) of section 36,

[9][(*vii-a*) interest on deposits with any authority constituted in India by or under any law enacted either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both,]

[10][(*viii*) interest on deposits with a co-operative society, not being a co-operative society referred to in clause (*vi*), made by a member of the society,] [11][or]

[11][(*ix*) dividends from any co-operative society,]

there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction as specified hereunder, namely —

(*a*) in a case where the amount of such income does not exceed in the aggregate three thousand rupees, the whole of such amount, and

(*b*) in any other case, three thousand rupees

(2) In a case where the assessee is entitled also to the deduction under section 80K in relation to the whole or any part of the income by way of dividends referred to in clause (*iv*) of sub-section (1), only so much of such income by way of dividends as may remain after the deduction under section 80K shall be taken into account for the purpose of allowing the deduction under sub-section (1)]

80M. Deduction in respect of certain intercorporate dividends.—(1) Where the gross total income of an assessee being a company includes any income by way of dividends [12]* * from a domestic company, there shall, in accordance with and

[9] Inserted by s 23, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976
[10] Inserted by s 17, F (No 2) Act, 1971, w e f 1-4-1972
[11] Inserted by s 20, F Act, 1972, w e f 1-4-1973
[12] "Received by it" omitted by s 10, F Act, 1968, w e f 1-4-1968

subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such income by way of dividends of an amount equal to—

[13][(*a*) where the assessee is a domestic company—

(*i*) in respect of such income by way of dividends from a company formed and registered under the Companies Act, 1956 (I of 1956), after the 28th day of February, 1975, and engaged exclusively or almost exclusively in the manufacture or production of any one or more of the articles or things specified in items 11 and 18, item 23 (excluding refractories) and item 24 in the list in the Ninth Schedule	the whole of such income;
(*ii*) in respect of such income by way of dividends other than the dividends referred to in sub-clause (*i*)	sixty per cent of such income,
(*b*) where the assessee is a foreign company, in respect of such income by way of dividends	sixty-five per cent. of such income]

[14]* * * * *

[15][(2) Where a company to which this section applies is entitled also to the deduction under section 80K, the deduction under sub-section (1) shall be allowed in respect of income by way of dividends referred to therein as reduced by the amount of the deduction under section 80K]

[16][**80MM. Deduction in the case of an Indian company in respect of royalties, etc., received from any concern in India.**—(1) Where the gross total income of an assessee, being an Indian company [17]* *, includes any income by way of royalty, commission, fees or any other payment (not being income chargeable under the head "Capital gains") received by [18][the assessee] from any person carrying on a business in India in consideration for—

(*i*) the provision of technical know-how which is likely to assist in the manufacture or processing of goods or materials, or in the installation or erection of machinery or plant for such manufacture or processing, or in the working of a mine, oil well or other source of mineral deposits, or in the search for, or discovery or testing of, mineral deposits or the winning of access to them, or in carrying out any operation relating to agriculture, animal husbandry, dairy or poultry farming, forestry or fishing, or

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[13] Substituted by s 18, F (No 2) Act, 1971, w e f 1-4-1972, and further substituted by s 15, F Act, 1975, w e f 1-4-1976

[14] The Explanation omitted by s 18, F (No 2) Act, 1971, w e f 1-4-1972

[15] Substituted for sub-s (2) and the Explanation by s 18, F (No 2) Act, 1971, w e f 1-4-1972 Sub-s (2) and the Explanation substituted for the original sub-s (2) by s 15, F Act, 1970, w e f 1-4-1971

[16] Inserted by s 9, F Act, 1969, w e f 1-4-1970

[17] "Or a person (other than a company) who is resident in India" inserted by s 19, F (No 2) Act, 1971, w e f 1-4-1972, and omitted by s 7, F Act, 1974, w e f 1-4-1975

[18] Substituted for "it" by s 19, F (No 2) Act, 1971, w e f 1-4-1972

(*ii*) rendering services in connection with the provision of such technical know-how,

[19][under an agreement entered into by the assessee with such person on or after the 1st day of April, 1969, and approved by the [20][Board] in this behalf, there shall, [21][in accordance with and subject to the provisions of this section,] be allowed a deduction from such income of an amount equal to forty per cent thereof, in computing the total income of the assessee

Provided that the application for such approval is made to the [20][Board] before the 1st day of October of the relevant assessment year:]

[21][Provided further that approval of the Board shall not be necessary in the case of any such agreement which has been approved for the purposes of the deduction under this sub-section by the Central Government before the 1st day of April, 1972, and every application for such approval of any such agreement pending with the Central Government immediately before that day shall stand transferred to the Board for disposal]

(2) For the purposes of this section "provision of technical know-how" means,—

(*i*) the transfer of all or any rights (including the granting of a licence) in respect of a patent, invention, model, design, secret formula or process or similar property,

(*ii*) the imparting of any information concerning the working of, or the use of, a patent, invention, model, design, secret formula or process or similar property,

(*iii*) the use of any patent, invention, model, design, secret formula or process or similar property,

(*iv*) the imparting of any information concerning industrial, commercial or scientific knowledge, experience or skill

[22](2A) * * * * *

(3) The provisions of sub-section (1) shall not apply in relation to any income in respect of which the assessee is entitled to the deduction specified in section 80-O.]

80N. Deduction in respect of dividends received from certain foreign companies.—Where shares in a foreign company have been allotted to an assessee, being an Indian company [23]* *, in consideration of any patent, invention, model, design, secret formula or process, or similar property right, or information concerning industrial, commercial or scientific knowledge, experience or skill made available or provided or agreed to be made available or provided to the foreign company by the assessee, or in consideration of technical services rendered or agreed to be rendered to the foreign company by the assessee, under an agreement approved by the [24][Board in

[19] Substituted by s 16, F Act, 1970, w e f 1-4-1970.
[20] Substituted for "Central Government" by s 19, F (No 2) Act, 1971, w e f 1-4-1972
[21] Inserted, *ibid*, w e f 1-4-1972
[22] Inserted, *ibid*, w e f 1-4-1972, and omitted by s 7, F Act, 1974, w e f 1-4-1975
[23] "Or a person (other than a company) who is resident in India" inserted by s. 20, F (No 2) Act, 1971, w e f 1-4-1972, and omitted by s 8, F Act, 1974, w e f 1-4-1975
[24] Substituted for "Central Government in this behalf before the 1st day of October of the relevant assessment year" by s 20, F (No 2) Act, 1971, w e f 1-4-1972.

this behalf], and any income by way of dividend on such shares [25][included in the gross total income of the assessee is received in convertible foreign exchange in India, or having been received in convertible foreign exchange outside India, or having been converted into convertible foreign exchange outside India, is brought into India, by or on behalf of the assessee in accordance with any law for the time being in force for regulating payments and dealings in foreign exchange, there shall be allowed a deduction of the whole of the income so received in, or brought into, India,] in computing the total income of the assessee

[1][Provided that the application for such approval is made to the Board before the 1st day of October of the relevant assessment year

Provided further that the approval of the Board shall not be necessary in the case of any such agreement which has been approved for the purposes of the deduction under this section by the Central Government before the 1st day of April, 1972, and every application for such approval of any such agreement pending with the Central Government immediately before that day shall stand transferred to the Board for disposal]

[2][*Explanation.*—For the purposes of this section,—

(*i*) "convertible foreign exchange" means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of the law for the time being in force for regulating payments and dealings in foreign exchange,

(*ii*) any income used by the assessee outside India in the manner permitted by the Reserve Bank of India shall be deemed to have been brought into India in accordance with the law for the time being in force for regulating payments and dealings in foreign exchange, on the date on which such permission is given]

[3][**80-O. Deduction in respect of royalties, etc., from certain foreign enterprises.**— [4][Where the gross total income of an assessee, being an Indian company,] includes any income by way of royalty, commission, fees or any similar payment received by the assessee from the Government of a foreign State or a foreign enterprise in consideration for the use outside India of any patent, invention, model, design, secret formula or

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25 Substituted for "is included in the gross total income of the assessee, there shall be allowed a deduction of the whole of such income" by s 8, F Act, 1974, w e f 1-4-1969

"*Amendment of sections 80N and 80-O of the Income-tax Act as they stood during certain periods* — The provisions of section 80N of the Income-tax Act, as they stood immediately before the 1st day of April, 1969, and the provisions of section 80-O of that Act, as they stood from time to time before the 1st day of April, 1972, shall have and shall be deemed to have had effect subject to the modification that the deduction under the said provisions shall be allowed only with reference to the income referred to therein which is received in convertible foreign exchange in India, or having been received in convertible foreign exchange outside India, or having been converted into convertible foreign exchange outside India, is brought into India, by or on behalf of the assessee in accordance with any law for the time being in force for regulating payments and dealings in foreign exchange

Explanation —For the purposes of this section,—

(*i*) 'convertible foreign exchange' means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of the law for the time being in force for regulating payments and dealings in foreign exchange,

(*ii*) any income used by the assessee outside India in the manner permitted by the Reserve Bank of India shall be deemed to have been brought into India in accordance with the law for the time being in force for regulating payments and dealings in foreign exchange, on the date on which such permission is given "—*S 17, F Act, 1974*

1 Inserted by s 20, F (No 2) Act, 1971, w e f 1-4-1972

2 Inserted by s 8, F Act, 1974, w e f 1-4-1969

3 Substituted by s 21, F (No 2) Act, 1971, w e f 1-4-1972

4 Substituted for "(1) Where the gross total income of an assessee, being an Indian company or a person (other than a company) who is resident in India" by s 9, F Act, 1974, w e f 1-4-1975

process, or similar property right, or information concerning industrial, commercial or scientific knowledge, experience or skill made available or provided or agreed to be made available or provided to such Government or enterprise by the assessee, or in consideration of technical services rendered or agreed to be rendered outside India to such Government or enterprise by the assessee, under an agreement approved by the Board in this behalf, [5][and such income is received in convertible foreign exchange in India, or having been received in convertible foreign exchange outside India, or having been converted into convertible foreign exchange outside India, is brought into India, by or on behalf of the assessee in accordance with any law for the time being in force for regulating payments and dealings in foreign exchange, there shall be allowed, in accordance with and subject to the provisions of this section, a deduction of the whole of the income so received in, or brought into, India] in computing the total income of the assessee

Provided that the application for the approval of the agreement referred to in this sub-section is made to the Board before the 1st day of October of the assessment year in relation to which the approval is first sought

Provided further that approval of the Board shall not be necessary in the case of any such agreement which has been approved for the purposes of the deduction under this section by the Central Government before the 1st day of April, 1972, and every application for such approval of any such agreement pending with the Central Government immediately before that day shall stand transferred to the Board for disposal.

[6][*Explanation* —The provisions of the *Explanation* to section 80N shall apply for the purposes of this section as they apply for the purposes of that section.]

[7]* * * * *]

80P. Deduction in respect of income of co-operative societies.—(1) Where, in the case of an assessee being a co-operative society, the gross total income includes any income referred to in sub-section (2), there shall be deducted, in accordance with and subject to the provisions of this section, the sums specified in sub-section (2), in computing the total income of the assessee

(2) The sums referred to in sub section (1) shall be the following, namely.—

(*a*) in the case of a co-operative society engaged in—

(*i*) carrying on the business of banking or providing credit facilities to its members, or

(*ii*) a cottage industry, or

(*iii*) the marketing of the agricultural produce of its members, or

(*iv*) the purchase of agricultural implements, seeds, live-stock or other articles intended for agriculture for the purpose of supplying them to its members, or

(*v*) the processing, without the aid of power, of the agricultural produce of its members, [8][or]

[8][(*vi*) the collective disposal of the labour of its members, or

[5] Substituted for "there shall be allowed, in accordance with and subject to the provisions of this section, a deduction of the whole of such income" by s 9, F Act, 1974, w e f 1-4-1972 See p 273, f n 25.
[6] Inserted, *ibid*, w e f 1-4-1972
[7] Sub-s (2) omitted, *ibid*, w e f 1-4-1975
[8] Inserted by s 22, F (No 2) Act, 1971, w e f 1-4-1972

(*vii*) fishing or allied activities, that is to say, the catching, curing, processing, preserving, storing or marketing of fish or the purchase of materials and equipment in connection therewith for the purpose of supplying them to its members,]

the whole of the amount of profits and gains of business attributable to any one or more of such activities

[9][Provided that in the case of a co-operative society falling under sub-clause (*vi*) or sub-clause (*vii*), the rules and bye-laws of the society restrict the voting rights to the following classes of its members, namely —

(*1*) the individuals who contribute their labour or, as the case may be, carry on the fishing or allied activities,

(*2*) the co-operative credit societies which provide financial assistance to the society,

(*3*) the State Government,]

(*b*) in the case of a co-operative society, being a primary society engaged in supplying milk raised by its members to a federal milk co-operative society, the whole of the amount of profits and gains of such business,

(*c*) in the case of a co-operative society engaged in activities other than those specified in clause (*a*) or clause (*b*) (either independently of, or in addition to, all or any of the activities so specified), so much of its profits and gains attributable to such activities as does not exceed [10][twenty] thousand rupees,

(*d*) in respect of any income by way of interest or dividends derived by the co-operative society from its investments with any other co-operative society, the whole of such income,

(*e*) in respect of any income derived by the co-operative society from the letting of godowns or warehouses for storage, processing or facilitating the marketing of commodities, the whole of such income,

(*f*) in the case of a co-operative society, not being a housing society or an urban consumers' society or a society carrying on transport business or a society engaged in the performance of any manufacturing operations with the aid of power, where the gross total income does not exceed twenty thousand rupees, the amount of any income by way of interest on securities chargeable under section 18 or any income from house property chargeable under section 22

Explanation —For the purposes of this section, an "urban consumers' co-operative society" means a society for the benefit of the consumers within the limits of a municipal corporation, municipality, municipal committee, notified area committee, town area or cantonment

(3) In a case where the assessee is entitled also to the deduction under [11]* * [12][section 80HH or] section 80J [13][or section 80JJ], the deduction under sub-section (1) of this section, in relation to the sums specified in clause (*a*) or clause (*b*) or clause (*c*) of sub-section (2), shall be allowed with reference to the income, if any, as

[9] Inserted by s 22, F (No 2) Act, 1971, w e f 1-4-1972
[10] Substituted for "fifteen" by s 10, F Act, 1969, w e f 1-4-1970
[11] "Section 80H or" omitted by s 24, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976
[12] Inserted by s 11, Direct Taxes (Amendment) Act, 1974, w e f 1-4-1974
[13] Inserted by s 24, F Act, 1975, w e f 1-4-1976

referred to in those clauses included in the gross total income as reduced by the deductions under [14]* * [15][section 80HH], [16][section 80J and section 80JJ]

(4) [17]* * * * *

80Q.—*Omitted by s 21 of the Finance Act, 1972, with effect from 1st April 1973*

[18][**80QQ. Deduction in respect of profits and gains from the business of publication of books.**—(1) Where in the case of an assessee the gross total income of the previous year relevant to the assessment year commencing on the 1st day of April, 1971, or to any one of the [19][nine] assessment years next following that assessment year, includes any profits and gains derived from a business carried on in India of printing and publication of books or publication of books, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such profits and gains of an amount equal to twenty per cent thereof

(2) In a case where the assessee is entitled also to the deduction under [20]* * [21][section 80HH or] section 80J or section 80P, in relation to any part of the profits and gains referred to in sub-section (1), the deduction under sub-section (1) shall be allowed with reference to such profits and gains included in the gross total income as reduced by the deductions under [22][[23]* * section 80HH, section 80J and section 80P]

(3) For the purposes of this section, "books" shall not include newspapers, journals, magazines, diaries, brochures, tracts, pamphlets and other publications of a similar nature, by whatever name called]

80R. Deduction in respect of remuneration from certain foreign sources in the case of professors, teachers, etc.—Where the gross total income of an individual who is a citizen of India includes any remuneration received by him outside India from any University or other educational institution established outside India or such other association or body established outside India as may be notified in this behalf by the Central Government in the Official Gazette, for any service rendered by him during his stay outside India in his capacity as a professor, teacher or research worker in such University, institution, association or body, there shall be allowed a deduction from such remuneration of an amount equal to fifty per cent thereof, in computing the total income of the individual

Provided that where the individual renders continuous service outside India in such University, institution, association or body for a period exceeding thirty-six months, no deduction under this section shall be allowed in respect of the remuneration for such service relating to any period after the expiry of the thirty-six months aforesaid

[24][**80RR. Deduction in respect of professional income from foreign sources in certain cases.**—Where the gross total income of an individual resident in India, being an

[14] "Section 80H," omitted by s 24, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976
[15] Inserted by s 11, Direct Taxes (Amendment) Act, 1974, w e f 1-4-1974
[16] Substituted for "and section 80J" by s 24, F Act, 1975, w e f 1-4-1976
[17] Omitted by s 10, F Act, 1969, w e f. 1-4-1970
[18] Inserted by s 21, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971
[19] Substituted for "four" by s 16, F Act, 1975, w e f 1-4-1975
[20] "Section 80H or" omitted by s 25, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976
[21] Inserted by s 12, Direct Taxes (Amendment) Act, 1974, w e f 1-4-1974
[22] Substituted for "sections 80H, 80J and 80P" by s 12, Direct Taxes (Amendment) Act, 1974, w e f 1-4-1974
[23] "Section 80H," omitted by s 25, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976
[24] Inserted by s 11, F Act, 1969, w e f 1-4-1970

author, playwright, artist, musician or actor, includes any income derived by him in the exercise of his profession from the Government of a foreign State or any person not resident in India, and such income is received in, or brought into, India by him or on his behalf in accordance with the Foreign Exchange Regulation Act, 1947 (VII of 1947), and any rules made thereunder, there shall be allowed a deduction from such income of an amount equal to twenty-five per cent of the income so received or brought, in computing the total income of the individual]

[25][**80RRA. Deduction in respect of remuneration from foreign employers.**—(1) Where the gross total income of an individual who is a citizen of India includes any remuneration received by him from any foreign employer for any service rendered by him outside India, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the individual, a deduction from such remuneration of an amount equal to fifty per cent thereof

Provided that where the individual renders continuous service outside India under or for the foreign employer for a period exceeding thirty-six months, no deduction under this section shall be allowed in respect of the remuneration for such service relating to any period after the expiry of the thirty-six months aforesaid

(2) The deduction under this section shall be allowed—

(*i*) in the case of an individual who is or was, immediately before undertaking the service under or for the foreign employer, in the employment of the Central Government or any State Government, only if such service is sponsored by the Central Government, and

(*ii*) in the case of any other individual, only if he is a technician and the contract of service under or for the foreign employer is approved in this behalf by the Central Government or the prescribed authority

Explanation 1—In this section, "foreign employer" means,—

(*a*) the Government of a foreign State, or

(*b*) a foreign enterprise, or

(*c*) any association or body established outside India

Explanation 2—For the purposes of this section, "technician" means a person having specialised knowledge and experience in—

(*i*) constructional or manufacturing operations or mining or the generation or distribution of electricity or any other form of power, or

(*ii*) agriculture, animal husbandry, dairy farming, deep sea fishing or ship building, or

(*iii*) public administration or industrial or business management; or

(*iv*) accountancy, or

(*v*) any field of natural or applied science (including medical science) or social science, or

(*vi*) any other field which the Board may prescribe in this behalf,

who is employed by the foreign employer in a capacity in which such specialised knowledge and experience are actually utilised]

80S. Deduction in respect of compensation for termination of managing agency, etc., in the case of assessees other than companies.—Where the gross total income of an assessee not being a company includes any income by way of compensation or other payment which is chargeable as the profits and gains of business or profession in

[25] Inserted by s 17, F Act, 1975, w e f 1-4-1975

accordance with the provisions [1][of sub-clause (*a*) or sub-clause (*b*) or sub-clause (*c*)] of clause (*ii*) of section 28, there shall be allowed, in computing the total income of the assessee, a deduction from such income of an amount equal to twenty-five per cent. thereof, so, however, that the amount of the deduction under this section shall not, in any case, exceed one hundred thousand rupees

80T. Deduction in respect of long-term capital gains in the case of assessees other than companies.—Where the gross total income of an assessee not being a company includes any income chargeable under the head "Capital gains" relating to capital assets other than short-term capital assets (such income being, hereinafter, referred to as long-term capital gains), there shall be allowed, in computing the total income of the assessee, a deduction from such income of an amount equal to,—

(*a*) in a case where the gross total income does not exceed ten thousand rupees or where the long-term capital gains do not exceed five thousand rupees, the whole of such long-term capital gains,

(*b*) in any other case, five thousand rupees as increased by a sum equal to—

(*i*) [2][twenty-five] per cent of the amount by which the long-term captial gains relating to capital assets, being buildings or lands, or any rights in buildings or lands, exceed five thousand rupees,

(*ii*) [3][forty] per cent of the amount by which the long-term capital gains relating to any other capital assets exceed five thousand rupees

Provided that in a case where the long-term capital gains relate to buildings or lands, or any rights in buildings or lands, as well as to other assets, the sum referred to in sub-clause (*ii*) of clause (*b*) shall be taken to be—

(*A*) where the amount of the long-term capital gains relating to the capital assets mentioned in sub-clause (*i*) is less than five thousand rupees, [3][forty] per cent of the amount by which the long-term capital gains relating to any other capital assets exceed the difference between five thousand rupees and the amount of the long-term capital gains relating to the capital assets mentioned in sub-clause (*i*), and

(*B*) where the amount of the long-term capital gains relating to the capital assets mentioned in sub-clause (*i*) is equal to or more than five thousand rupees, [3][forty] per cent of the long-term capital gains relating to any other capital assets.

[4][**80TT. Deduction in respect of winnings from lottery.**—Where the gross total income of an assessee, not being a company, includes any income by way of winnings from any lottery (such income being hereafter in this section referred to as winnings), there shall be allowed, in computing the total income of the assessee, a deduction from the winnings of an amount equal to,—

(*a*) in a case where the gross total income does not exceed ten thousand rupees or where the winnings do not exceed five thousand rupees, the whole of such winnings,

(*b*) in any other case, five thousand rupees as increased by a sum equal to fifty per cent of the amount by which the winnings exceed five thousand rupees]

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1 Inserted by s 11, F Act, 1973, w e f 1-4-1972

2 "Thirty-five" substituted for "forty-five" by s 23, F (No 2) Act, 1971, w e f 1-4-1972 "Twenty-five" substituted for "thirty-five" by s 2, F (No 2) Act, 1974, w e f 1-4-1975

3 "Fifty" substituted for "sixty-five" by s 23, F (No 2) Act, 1971, w e f. 1-4-1972 "Forty" substituted for "fifty" by s 2, F (No 2) Act, 1974, w e f 1-4-1975

4 Inserted by s 22, F Act, 1972, w e f 1-4-1972

[5][*D —Other deductions*

[6][**80U. Deduction in the case of totally blind or physically handicapped resident persons.**—In computing the total income of an individual, being a resident, who, as at the end of the previous year,—

(*i*) is totally blind, or

(*ii*) is subject to or suffers from a permanent physical disability (other than blindness) which has the effect of reducing substantially his capacity to engage in a gainful employment or occupation,

there shall be allowed a deduction of a sum of five thousand rupees:

Provided that such individual produces before the Income-tax Officer, in respect of the first assessment year for which deduction is claimed under this section,—

(*a*) in a case referred to in clause (*i*), a certificate as to his total blindness from a registered medical practitioner being an oculist, and

(*b*) in a case referred to in clause (*ii*), a certificate as to the permanent physical disability referred to in the said clause from a registered medical practitioner]]

[7][**80V. Deduction of interest on moneys borrowed to pay taxes.**—In computing the total income of an assessee, there shall be allowed by way of deduction any interest paid by him in the previous year on any money borrowed for the payment of any tax due from him under this Act

80VV. Deduction in respect of expenses incurred in connection with certain proceedings under the Act.—In computing the total income of an assessee, there shall be allowed by way of deduction any expenditure incurred by him in the previous year in respect of any proceedings before any Income-tax authority or the Appellate Tribunal or any court relating to the determination of any liability under this Act, by way of tax, penalty or interest

Provided that no deduction under this section shall, in any case, exceed in the aggregate five thousand rupees]]

CHAPTER VII

INCOMES FORMING PART OF TOTAL INCOME ON WHICH NO INCOME-TAX IS PAYABLE

81-85C.—*Omitted by s 33 of, and the Third Schedule to, the Finance (No. 2) Act, 1967, with effect from 1st April 1968* [8]

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[5] Inserted by s 30 and 3rd Sch , F Act, 1968, w e f 1-4-1969

[6] Substituted by s 22, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

[7] Inserted by s 26, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976

[8] "*Special provisions in regard to certain assessments under the Income-tax Act*—(1) Notwithstanding the omission of section 85 of the Income-tax Act by section 33 of the Finance (No 2) Act, 1967 (XX of 1967), the provisions of the said section 85 shall have, and be deemed always to have, in relation to any assessment for the assessment year commencing on or after the 1st day of April, 1962, and before the 1st day of April, 1968, effect subject to the modification that for the words 'by a shareholder in respect of so much of any dividend paid or deemed to be paid to him', the words 'by an owner of the shares in respect of so much of any dividend paid or deemed to be paid' were substituted

(2) Notwithstanding the omission of section 85A of the Income-tax Act by section 33 of the Finance (No 2) Act, 1967 (XX of 1967), the provisions of the said section 85A shall have, and be deemed always to have, in relation to any assessment for the assessment year commencing on or after the 1st day of April, 1965, and before the 1st day of April, 1968, effect subject to the modification that the words 'received by it', wherever they occur, were omitted

* * * "—*S 31, F Act, 1968*

86. Other incomes.—Income-tax shall not be payable by an assessee in respect of the following—

(*i*) [9]* * * * *

(*ii*) [9]* * * * *

(*iii*) if the assessee is a partner of an unregistered firm [10][(not being an unregistered firm assessed as a registered firm under clause (*b*) of section 183)], any portion of the assessee's share in the profits and gains of the firm computed in the manner laid down in section 67 on which income-tax [11][is payable] by the firm,

(*iv*) [12]* * * * *

(*v*) if the assessee is a member of an association of persons, or a body of individuals other than a Hindu undivided family, a company or a firm, any portion of the amount which he is entitled to receive from the association or body on which income-tax has already been paid by the association or body

[13][**86A. Deduction from tax on certain securities.**—Where there is included in the total income of an assessee—

(*i*) the interest due on any security of the Central Government issued or declared to be income-tax free, or

(*ii*) the interest due on any security of a State Government issued income-tax free, the income-tax whereon is payable by the State Government,

the assessee shall be entitled to a deduction from the amount of income-tax with which he is chargeable on his total income, of an amount equal to the income-tax calculated on the amount so included at the average rate of income-tax or at the rate of [14][twenty-seven and a half] per cent., whichever is less]

CHAPTER VIII

[15][RELIEF IN RESPECT OF INCOME-TAX]

87, 87A and 88.—*Omitted by s 33 of, and the Third Schedule to, the Finance (No 2) Act, 1967, with effect from 1st April 1968*

R 21A **89. Relief when salary, etc., is paid in arrears or in advance.**—(1) Where, by reason of any portion of an assessee's salary being paid in arrears or in advance or by reason of his having received in any one financial year salary for more than twelve months or a payment which under the provisions of clause (*3*) of section 17 is a profit in lieu of salary, his income is assessed at a rate higher than that at which it would otherwise have been assessed, [16][the Income-tax Officer shall, on an application made to him in this behalf, grant such relief as may be prescribed]

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[9] Omitted by s 23, F Act, 1965, w e f 1-4-1965
[10] Inserted by s 24, F (No 2) Act, 1971, w e f 1-4-1971
[11] Substituted for "has already been paid" by s 17, F Act, 1964, w e f 1-4-1964
[12] Omitted by s 30 and 3rd Sch , F Act, 1968, w e f 1-4-1969
[13] Inserted by s 24, F Act, 1965, w e f 1-4-1965
[14] Substituted for "twenty-five" by s 18, F Act, 1966, w e f 1-4-1966
[15] Substituted for "Rebates and reliefs" by s 33 and 3rd Sch , F (No 2) Act, 1967, w e f 1-4-1968.
[16] Substituted for "the Commissioner may, on an application made in this behalf by the assessee, grant such relief as he considers appropriate" by s 23, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

(2) Where, by reason of any portion of income from interest on securities being received in arrears, an assessee's total income is assessed at a rate higher than that at which it would otherwise have been assessed, [17][the Income-tax Officer shall, on an application made to him in this behalf, grant such relief as may be prescribed] **R 21B**

CHAPTER IX

DOUBLE TAXATION RELIEF

[18][**90. Agreement with foreign countries.**—The Central Government may enter into an agreement with the Government of any country outside India—

(*a*) for the granting of relief in respect of income on which have been paid both income-tax under this Act and income-tax in that country, or

(*b*) for the avoidance of double taxation of income under this Act and under the corresponding law in force in that country, or

(*c*) for exchange of information for the prevention of evasion or avoidance of income-tax chargeable under this Act or under the corresponding law in force in that country, or investigation of cases of such evasion or avoidance, or

(*d*) for recovery of income-tax under this Act and under the corresponding law in force in that country,

and may, by notification in the Official Gazette, make such provisions as may be necessary for implementing the agreement]

91. Countries with which no agreement exists.—(1) If any person who is resident in India in any previous year proves that, in respect of his income which accrued or arose during that previous year outside India (and which is not deemed to accrue or arise in India), he has paid in any country with which there is no agreement under section 90 for the relief or avoidance of double taxation, income-tax, by deduction or otherwise, under the law in force in that country, he shall be entitled to the deduction from the Indian income-tax payable by him of a sum calculated on such doubly taxed income at the Indian rate of tax or the rate of tax of the said country, whichever is the lower, or at the Indian rate of tax if both the rates are equal

(2) If any person who is resident in India in any previous year proves that in respect of his income which accrued or arose to him during that previous year in Pakistan he has paid in that country, by deduction or otherwise, tax payable to the Government under any law for the time being in force in that country relating to taxation of agricultural income, he shall be entitled to a deduction from the Indian income-tax payable by him—

(*a*) of the amount of the tax paid in Pakistan under any law aforesaid on such income which is liable to tax under this Act also, or

(*b*) of a sum calculated on that income at the Indian rate of tax,

whichever is less

(3) If any non-resident person is assessed on his share in the income of a registered firm assessed as resident in India in any previous year and such share includes any

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[17] Substituted for "the Commissioner may, on an application made in this behalf by the assessee, grant such relief as he considers appropriate" by s 23, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

[18] Substituted by s 23, F Act, 1972, w e f 1-4-1972

income accruing or arising outside India during that previous year (and which is not deemed to accrue or arise in India) in a country with which there is no agreement under section 90 for the relief or avoidance of double taxation and he proves that he has paid income-tax by deduction or otherwise under the law in force in that country in respect of the income so included he shall be entitled to a deduction from the Indian income-tax payable by him of a sum calculated on such doubly taxed income so included at the Indian rate of tax or the rate of tax of the said country, whichever is the lower, or at the Indian rate of tax if both the rates are equal

Explanation—In this section,—

(*i*) the expression "Indian income-tax" means income-tax [19]* * charged in accordance with the provisions of this Act,

(*ii*) the expression "Indian rate of tax" means the rate determined by dividing the amount of Indian income-tax after deduction of any relief due under the provisions of this Act but before deduction of any relief due under this [20][Chapter], by the total income,

(*iii*) the expression "rate of tax of the said country" means income-tax and super-tax actually paid in the said country in accordance with the corresponding laws in force in the said country after deduction of all relief due, but before deduction of any relief due in the said country in respect of double taxation, divided by the whole amount of the income as assessed in the said country,

(*iv*) the expression "income-tax" in relation to any country includes any excess profits tax or business profits tax charged on the profits by the Government of any part of that country or a local authority in that country

CHAPTER X

SPECIAL PROVISIONS RELATING TO AVOIDANCE OF TAX

Rr 10, 11 **92. Income from transactions with non-residents, how computed in certain cases.**—Where a business is carried on between a resident and a non-resident and it appears to the Income-tax Officer that, owing to the close connection between them, the course of business is so arranged that the business transacted between them produces to the resident either no profits or less than the ordinary profits which might be expected to arise in that business, the Income-tax Officer shall determine the amount of profits which may reasonably be deemed to have been derived therefrom and include such amount in the total income of the resident

93. Avoidance of income-tax by transactions resulting in transfer of income to non-residents.—(1) Where there is a transfer of assets by virtue or in consequence whereof, either alone or in conjunction with associated operations, any income becomes payable to a non-resident, the following provisions shall apply—

(*a*) where any person has, by means of any such transfer, either alone or in conjunction with associated operations, acquired any rights by virtue of which he has, within the meaning of this section, power

[19] "And super-tax" omitted by s 28, F Act, 1965, w e f 1-4-1965
[20] Substituted for "section" by s 20, F Act, 1964, w e f 1-4-1964

to enjoy, whether forthwith or in the future, any income of a non-resident person which, if it were income of the first-mentioned person, would be chargeable to income-tax, that income shall, whether it would or would not have been chargeable to income-tax apart from the provisions of this section, be deemed to be income of the first-mentioned person for all the purposes of this Act,

(*b*) where, whether before or after any such transfer, any such first-mentioned person receives or is entitled to receive any capital sum the payment whereof is in any way connected with the transfer or any associated operations, then any income which, by virtue or in consequence of the transfer, either alone or in conjunction with associated operations, has become the income of a non-resident shall, whether it would or would not have been chargeable to income-tax apart from the provisions of this section, be deemed to be the income of the first-mentioned person for all the purposes of this Act

Explanation —The provisions of this sub-section shall apply also in relation to transfers of assets and associated operations carried out before the commencement of this Act

(2) Where any person has been charged to income-tax on any income deemed to be his under the provisions of this section and that income is subsequently received by him, whether as income or in any other form, it shall not again be deemed to form part of his income for the purposes of this Act

(3) The provisions of this section shall not apply if the first-mentioned person in sub-section (1) shows to the satisfaction of the Income-tax Officer that—

(*a*) neither the transfer nor any associated operation had for its purpose or for one of its purposes the avoidance of liability to taxation, or

(*b*) the transfer and all associated operations were bona fide commercial transactions and were not designed for the purpose of avoiding liability to taxation.

Explanation —For the purposes of this section,—

(*a*) references to assets representing any assets, income or accumulations of income include references to shares in or obligation of any company to which, or obligation of any other person to whom, those assets, that income or those accumulations are or have been transferred,

(*b*) any body corporate incorporated outside India shall be treated as if it were a non-resident,

(*c*) a person shall be deemed to have power to enjoy the income of a non-resident if—

(*i*) the income is in fact so dealt with by any person as to be calculated at some point of time and, whether in the form of income or not, to enure for the benefit of the first-mentioned person in sub-section (1), or

(*ii*) the receipt or accrual of the income operates to increase the value to such first-mentioned person of any assets held by him or for his benefit, or

(*iii*) such first-mentioned person receives or is entitled to receive at any time any benefit provided or to be provided out of that income or out of moneys which are or will be available for the purpose by reason of the

effect or successive effects of the associated operations on that income and assets which represent that income, or

(*iv*) such first-mentioned person has power by means of the exercise of any power of appointment or power of revocation or otherwise to obtain for himself, whether with or without the consent of any other person, the beneficial enjoyment of the income, or

(*v*) such first-mentioned person is able, in any manner whatsoever and whether directly or indirectly, to control the application of the income,

(*d*) in determining whether a person has power to enjoy income, regard shall be had to the substantial result and effect of the transfer and any associated operations, and all benefits which may at any time accrue to such person as a result of the transfer and any associated operations shall be taken into account irrespective of the nature or form of the benefits.

(4) (*a*) "Assets" includes property or rights of any kind and "transfer" in relation to rights includes the creation of those rights,

(*b*) "associated operation", in relation to any transfer, means an operation of any kind effected by any person in relation to—

(*i*) any of the assets transferred, or

(*ii*) any assets representing, whether directly or indirectly, any of the assets transferred, or

(*iii*) the income arising from any such assets, or

(*iv*) any assets representing, whether directly or indirectly, the accumulations of income arising from any such assets,

(*c*) "benefit" includes a payment of any kind,

(*d*) "capital sum" means—

(*i*) any sum paid or payable by way of a loan or repayment of a loan, and

(*ii*) any other sum paid or payable otherwise than as income, being a sum which is not paid or payable for full consideration in money or money's worth

94. Avoidance of tax by certain transactions in securities.—(1) Where the owner of any securities (in this sub-section and in sub-section (2) referred to as "the owner") sells or transfers those securities, and buys back or reacquires the securities, then, if the result of the transaction is that any interest becoming payable in respect of the securities is receivable otherwise than by the owner, the interest payable as aforesaid shall, whether it would or would not have been chargeable to income-tax apart from the provisions of this sub-section, be deemed, for all the purposes of this Act, to be income of the owner and not to be the income of any other person.

Explanation—The references in this sub-section to buying back or reacquiring the securities shall be deemed to include references to buying or acquiring similar securities, so, however, that where similar securities are bought or acquired, the owner shall be under no greater liability to income-tax than he would have been under if the original securities had been bought back or reacquired

(2) Where any person has had at any time during any previous year any beneficial interest in any securities, and the result of any transaction relating to such securities or the income thereof is that, in respect of such securities within such year, either no income is received by him or the income received by him is less than the sum to which

the income would have amounted if the income from such securities had accrued from day to day and been apportioned accordingly, then the income from such securities for such year shall be deemed to be the income of such person

(3) The provisions of sub-section (1) or sub-section (2) shall not apply if the owner, or the person who has had a beneficial interest in the securities, as the case may be, proves to the satisfaction of the Income-tax Officer—

(*a*) that there has been no avoidance of income-tax, or

(*b*) that the avoidance of income-tax was exceptional and not systematic and that there was not in his case in any of the three preceding years any avoidance of income-tax by a transaction of the nature referred to in sub-section (1) or sub-section (2)

(4) Where any person carrying on a business which consists wholly or partly in dealing in securities, buys or acquires any securities and sells back or retransfers the securities, then, if the result of the transaction is that interest becoming payable in respect of the securities is receivable by him but is not deemed to be his income by reason of the provisions contained in sub-section (1), no account shall be taken of the transaction in computing for any of the purposes of this Act the profits arising from or loss sustained in the business

(5) Sub-section (4) shall have effect, subject to any necessary modifications, as if references to selling back or retransferring the securities included references to selling or transferring similar securities

(6) The Income-tax Officer may, by notice in writing, require any person to furnish him within such time as he may direct (not being less than twenty-eight days), in respect of all securities of which such person was the owner or in which he had a beneficial interest at any time during the period specified in the notice, such particulars as he considers necessary for the purposes of this section and for the purpose of discovering whether income-tax has been borne in respect of the interest on all those securities

Explanation —For the purposes of this section,—

(*a*) "interest" includes a dividend,

(*b*) "securities" includes stocks and shares,

(*c*) securities shall be deemed to be similar if they entitle their holders to the same rights against the same persons as to capital and interest and the same remedies for the enforcement of those rights, notwithstanding any difference in the total nominal amounts of the respective securities or in the form in which they are held or in the manner in which they can be transferred

CHAPTER XI

[21][ADDITIONAL INCOME-TAX ON UNDISTRIBUTED PROFITS]

95-103.—*Omitted by s 29 of the Finance Act, 1965, with effect from 1st April 1965* [22]

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[21] Substituted for "Super-tax" by s 29, F Act, 1965, w e f 1-4-1965

[22] "Notwithstanding the omission of section 99 of the Income-tax Act by section 29 of the Finance Act, 1965 (X of 1965), the provisions of clause (*iv*) of sub-section (1) of the said section 99 shall have, and be deemed always to have, in relation to any assessment for the assessment year commencing on or after the 1st day of April, 1962, and before the 1st day of April, 1965, effect subject to the modification that the words 'received by it' were omitted"—*S 31(3), F Act, 1968*

104. Income-tax on undistributed income of certain companies.—(1) Subject to the provisions of [23][this section and of sections 105, 106, 107 and 107A], where the Income-tax Officer is satisfied that in respect of any previous year the profits and gains distributed as dividends by any company within the twelve months immediately following the expiry of that previous year are less than the statutory percentage of the distributable income of the company of that previous year, the Income-tax Officer shall make an order in writing that the company shall, apart from the sum determined as payable by it on the basis of the assessment under section 143 or section 144, be liable to pay [24][income-tax] at the rate of—

(*a*) fifty per cent , in the case of an investment company,

[25][(*b*) thirty-seven per cent , in the case of a trading company, and

(*c*) twenty-five per cent , in the case of any other company,]

[1][on the distributable income as reduced by the amount of dividends actually distributed, if any,] [2][within the said period of twelve months]

[1]* * * * *

(2) The Income-tax Officer shall not make an order under sub-section (1) if he is satisfied—

(*i*) that, having regard to the losses incurred by the company in earlier years or to the smallness of the profits made in the previous year, the payment of a dividend or a larger dividend than that declared [2][within the period of twelve months referred to in sub-section (1)] would be unreasonable, or

(*ii*) that the payment of a dividend or a larger dividend than that declared [2][within the period of twelve months referred to in sub-section (1)] would not have resulted in a benefit to the revenue, or

(*iii*) that at least seventy-five per cent of the share capital of the company is throughout the previous year beneficially held by an institution or fund established in India for a charitable purpose the income from dividend whereof is exempt under section 11

[3][(3) If the Central Government is of opinion that it is necessary or expedient in the public interest so to do, it may, by notification in the Official Gazette and subject to such conditions as may be specified therein, exempt any class of companies to which the provisions of this section apply from the operation of this section.]

[4][(4) Without prejudice to the provisions of section 108, nothing contained in this section shall apply to a company which is neither an Indian company nor a company which has made the prescribed arrangements for the declaration and payment of dividends within India]

[23] Substituted for "sub-section (2) and of sections 105, 106 and 107" by s 23, F Act, 1964, w e f 1-4-1964

[24] Substituted for "super-tax" by s 30, F Act, 1965, w e f 1-4-1965

[25] Substituted for "(*b*) thirty-seven per cent , in the case of any other company", *ibid*, w e f 1-4-1965

[1] Substituted for "on the distributable income as reduced by—(*i*) the amount of dividends actually distributed, and", and cl (*ii*) omitted, by s 20, F Act, 1966, w e f 1-4-1966

[2] Inserted by s 12, F Act, 1973, w e f 1-4-1974

[3] Inserted by s 23, F Act, 1964, w e f 1-4-1964

[4] Inserted, *ibid*, w e f 1-4-1964, and substituted by s 27, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976

105. Special provisions for certain companies.—(1) No order under section 104 shall be made,—

(i) in the case of an investment company which has distributed, [5][within the period of twelve months referred to in sub-section (1) of section 104,] not less than eighty per cent of its distributable income, or

(ii) in the case of any other company whose distribution, [5][within the period of twelve months referred to in sub-section (1) of section 104,] falls short of the statutory percentage by not more than ten per cent. of its distributable income, or

(iii) in any case where according to the return made by a company under section 139 it has distributed, [5][within the period of twelve months referred to in sub-section (1) of section 104,] not less than the statutory percentage of its distributable income, but in the assessment made by the Income-tax Officer under section 143 or section 144 a higher total income is arrived at and the difference in the total income does not arise out of the application of the proviso to sub-section (1) of section 145 or sub-section (2) of section 145 or section 144 or the omission by the company to disclose its income fully and truly, or

(iv) in the case of a company where a reassessment is made under the provisions of clause (*b*) of section 147 and the sum distributed as dividends falls short of the statutory percentage of the distributable income determined on the basis of the reassessment,

unless the company, on receipt of a notice from the Income-tax Officer that he proposes to make such an order, fails to make within three months of the receipt of such notice, a further distribution of its profits and gains so that the total distribution made is not less than the statutory percentage of the distributable income

[5][*Explanation* —For the purposes of clause (*iv*) of this sub-section, "the sum distributed as dividends" means,—

(*a*) where in relation to the assessment made under section 143 or section 144, any further distribution of dividends was made by the company in pursuance of a notice under this sub-section, the aggregate of the following sums, namely —

(i) the sum distributed as dividends within the period of twelve months referred to in sub-section (1) of section 104, and

(ii) the sum distributed as dividends within the period of three months from the receipt of the said notice,

(*b*) where an order under section 107A has been made by the Board in relation to the assessment made under section 143 or section 144, the sum distributed as dividends within the period determined by the Board under the provisions of sub-section (4) of section 107A,

(*c*) in any other case, the sum distributed as dividends within the period of twelve months referred to in sub-section (1) of section 104]

(2) Any further distribution made under sub-section (1) shall not be taken into account in deciding whether the provisions of section 104 apply in respect of the previous year in which the further distribution is made

[5] Inserted by s 13, F Act, 1973, w e f 1-4-1974

[6][106. **Period of limitation for making orders under section 104.**—No order under section 104 shall be made at any time after—

(*a*) the expiry of—

(*i*) four years from the end of the assessment year relevant to the previous year referred to in sub-section (1) of that section, where such assessment year is an assessment year commencing on or before the 1st day of April, 1974,

(*ii*) two years from the end of the assessment year relevant to the previous year referred to in sub-section (1) of that section, where such assessment year is an assessment year commencing after the 1st day of April, 1974, or

(*b*) the expiry of one year from the end of the financial year in which the assessment or reassessment of the profits and gains of the previous year referred to in sub-section (1) of that section is made,

whichever is later

Provided that the period of limitation specified in this section shall not apply in a case where the company has made an application to the Board under section 107A]

107. Approval of Inspecting Assistant Commissioner for orders under section 104.—[7][Except in cases where a decision is given by the Board under sub-section (4) of section 107A,] no order shall be made by the Income-tax Officer under section 104 unless the previous approval of the Inspecting Assistant Commissioner has been obtained, and the Inspecting Assistant Commissioner shall not give his approval to any order proposed to be made by the Income-tax Officer until he has given the company concerned an opportunity of being heard

[8][107A. **Reduction of minimum distribution in certain cases.**—(1) If any company to which the provisions of section 104 apply (not being an investment company) considers that, having regard to the current requirements for the development of its business, it would not be possible or advisable for it to declare or pay a dividend of an amount larger than that already declared or paid or proposed to be declared or paid by it, it may make an application to the Board for reduction of the amount of the minimum distribution required under this Chapter

R 111A (2) Every application under sub-section (1) shall be in the prescribed form and shall be verified in the prescribed manner and shall be made within the period of twelve months referred to in sub-section (1) of section 104 or, where the Income-tax Officer has served on the company a notice under sub-section (1) of section 105 of his intention to make an order under section 104, within thirty days of the receipt of such notice

(3) Every application under sub-section (1) shall be accompanied by a fee of one hundred rupees

(4) If the Board is satisfied that a distribution equal to the statutory percentage of the distributable income of the company concerned would be unreasonable, it may reduce the amount of minimum distribution required of the company under this Chapter by such amount, not exceeding twenty per cent of the statutory percentage of its distributable income, as it may consider fit and further determine the period within which such distribution shall be made

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[6] Substituted by s 18, F Act, 1975, w e f 1-4-1975
[7] Inserted by s 25, F Act, 1964, w e f 1-4-1964
[8] Inserted by s 26, *ibid*, w e f 1-4-1964

(5) The Board shall not reject an application made under sub-section (1) without giving the company concerned an opportunity of being heard and its decision shall be final as respects matters concluded by it.

(6) Where an application is made by the company after receipt of a notice from the Income-tax Officer under sub-section (1) of section 105 and a further distribution is made in accordance with the decision thereon of the Board, such further distribution shall not be taken into account in deciding whether the provisions of section 104 apply in respect of the previous year in which the further distribution is made

(7) Where an application is made by a company under this section, the Income-tax Officer shall not make any order under section 104 until the decision is given by the Board on that application:

Provided that where a company is required to make a distribution or further distribution of its profits and gains in accordance with the decision of the Board and fails to make such distribution or further distribution within the period determined thereunder, the Income-tax Officer shall make an order under section 104 as if no reduction of the amount of minimum distribution had been made by the Board under this section

(8) If the Central Government is of opinion that it is necessary or expedient in the public interest so to do, it may, by notification in the Official Gazette, declare that the provisions of this section shall not apply to any class of companies or in regard to the whole or any part of the profits and gains of any class of companies

(9) Notwithstanding anything contained in section 246, no appeal shall lie to the Appellate Assistant Commissioner against an order of the Income-tax Officer under section 104 in a case where a decision has been given by the Board

(10) The Board may, by notification in the Official Gazette, direct that, subject to such conditions, if any, as may be specified in the notification, the powers exercisable by it under this section shall also be exercisable by any Commissioner in respect of such companies or classes of companies as may be specified therein and thereupon in respect of such companies or classes of companies the provisions of this section and sections 106 and 107 shall have effect as if references in the said sections to the Board were references to such Commissioner]

108. Savings for company in which public are substantially interested.—Nothing contained in section 104 shall apply—

(*a*) to any company in which the public are substantially interested, or

(*b*) to a subsidiary company of such company if the whole of the share capital of such subsidiary company has been held by the parent company or by its nominees throughout the previous year

109. "Distributable income", "investment company" and "statutory percentage" defined.—For the purposes of sections [9][104, 105 and 107A] [10][and this section],—

(*i*) "distributable income" means the [11][gross total income] of a company as reduced by—

(*a*) the amount of income-tax [12]* * payable by the company in respect of its total income, but excluding the amount of any [13][income-tax] payable under section 104,

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[9] Substituted for "104 and 105" by s 27, F Act, 1964, w e f 1-4-1964
[10] Inserted by s 33 and 3rd Sch , F (No 2) Act, 1967, w e f 1-4-1968.
[11] Substituted for "total income", *ibid*, w e f 1-4-1968.
[12] "And super-tax" omitted by s 31, F Act, 1965, w e f 1-4-1965
[13] Substituted for "super-tax", *ibid*, w e f 1-4-1965

(*b*) the amount of any other tax levied under any law for the time being in force on the company by the Government or by a local authority in excess of the amount, if any, which has been allowed in computing the total income,

[14][(*c*) any sum with reference to which a deduction is allowable to the company under the provisions of section 80G,]

[14][(*d*) losses under the head "Capital gains" relating to capital assets other than short-term capital assets;]

(*e*) income arising outside India in a country the laws of which prohibit or restrict the remittance of money to India·

Provided that, when the prohibition or restriction is subsequently removed, any reduction allowed under this provision shall be deemed to be a part of the distributable income of the previous year in which the prohibition or restriction is removed,

(*f*) in the case of a banking company, the amount actually transferred to a reserve fund under section 17 of the Banking Companies Act, 1949 (X of 1949),

[15][(*g*) any expenditure actually incurred for the purposes of the business, but not deducted in computing the income chargeable under the head "Profits and gains of business or profession" being—

(*1*) a bonus or gratuity paid to an employee,

(*2*) legal charges,

(*3*) any such expenditure as is referred to in clause (*c*) of section 40,

(*4*) any expenditure claimed as a revenue expenditure but not allowed to be deducted as such and not resulting in the creation of an asset or enhancement in the value of an existing asset,

(*h*) any expenditure wholly and exclusively incurred for the purpose of making or earning any income (other than income chargeable under the head "Profits and gains of business or profession") included in the [16][gross total income] but not allowed to be deducted in computing such income and not resulting in the creation of an asset or enhancement in the value of an existing asset,]

[17][(*i-a*) "industrial company" means an Indian company whose business consists wholly in the construction of ships or in the manufacture or processing of goods or in mining or in the generation or distribution of electricity or any other form of power,

(*i-b*) "consultancy service company" means an Indian company whose business consists wholly in the provision of technical know-how, or in the rendering of services in connection with the provision of technical know-how, to other persons,

Explanation—In this clause and in sub-clause (*3*) of clause (*iii*), the expression "provision of technical know-how" has the meaning assigned to it in sub-section (2) of section 80MM,]

[14] Substituted by s 33 and 3rd Sch, F (No 2) Act, 1967, w e f 1-4-1968
[15] Inserted by s 21, F Act, 1966, w e f 1-4-1966
[16] Substituted for "total income" by s 33 and 3rd Sch, F (No 2) Act, 1967, w e f 1-4-1968
[17] Inserted by s 28, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976

[18][(*ii*) "investment company" means a company whose gross total income consists mainly of income which is chargeable under the heads "Interest on securities", "Income from house property", "Capital gains" and "Income from other sources";]

[19][(*ii-a*) "trading company" means a company whose business consists [20]* * mainly in dealing in goods or merchandise manufactured, produced or processed by a person other than that company and whose income attributable to such business included in its [21][gross total income] is not less than fifty-one per cent of the amount of such [21][gross total income];]

(*iii*) "statutory percentage" means,—

[22][(*1*) in the case of an industrial company or a consultancy service company .. 45%

(*2*) in the case of an investment company other than an investment company which falls under sub-clause (*3*) of this clause 90%]

[23][(*3*) [24][in the case of an Indian company, not being an industrial company or a consultancy service company, a part of whose gross total income consists of profits and gains attributable to the business of provision of technical know-how, or of rendering services in connection with the provision of technical know-how, to other persons, or of construction of ships or of manufacture or processing of goods or of mining or of generation or distribution of electricity or any other form of power—

(*a*) in relation to the said part of its gross total income 45%]

(*b*) in relation to the remaining part of its [25][gross total income]—

(1) if it is an investment company or a company which satisfies the conditions specified in sub-clause (*4*) (*a*) of this clause 90%

(2) in any other case 60%

[1][*Explanation*—The provisions of this Chapter shall apply as if the aforesaid two parts of the gross total income of the company were respectively the gross total income of the company in relation to each such part and as if the amount of dividends actually distributed and the distributable income were also similarly apportioned for the purposes of section 104 and this section,]]

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[18] Substituted by s 21, F Act, 1966, w e f 1-4-1966, and further substituted by s 30 and 3rd Sch, F Act, 1968, w e f 1-4-1969

[19] Inserted by s 31, F Act, 1965, w e f 1-4-1965

[20] "Wholly or" omitted by s 21, F Act, 1966, w e f 1-4-1966

[21] Substituted for "total income" by s 33 and 3rd Sch, F (No 2) Act, 1967, w e f 1-4-1968

[22] Substituted for the original sub-cl (*1*) by s 28, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976 The original sub-cl (*2*) omitted by s 27, F Act, 1964, w e f 1-4-1964

[23] Substituted by s 21, F Act, 1966, w e f 1-4-1966

[24] Substituted by s 28, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976

[25] Substituted for "total income" by s 33 and 3rd Sch, F (No 2) Act, 1967, w e f 1-4-1968

[1] Substituted by s 28, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976

(4) in the case of any other company not referred to in the preceding clauses,—

(a) where the accumulated profits and reserves (including depreciation reserves and any amounts capitalised from the earlier reserves) representing accumulations of past profits which have not been the subject of an order under section 104 or the corresponding provision of the Indian Income-tax Act, 1922 (XI of 1922), exceed—

either

I the aggregate of—

(i) the paid-up capital of the company exclusive of the capital, if any, created out of its profits and gains which have not been the subject of an order under section 104, and

(ii) any loan capital which is the property of the shareholders,

or

II the value of the fixed assets as shown in the books of the company,

whichever of these is greater . 90%:

[2][Provided that in the case of such company, not being a trading company, sub-clause (a) shall have effect as if for the word "exceed", the words "exceed twice the amount of" were substituted,]

(b) where sub-clause (a) does not apply [3][60%],

[4][(iv) "gross total income" means the total income computed in accordance with the provisions of this Act before making any deduction under Chapter VI-A]

CHAPTER XII

DETERMINATION OF TAX IN CERTAIN SPECIAL CASES

[5][**110. Determination of tax where total income includes income on which no tax is payable.**—Where there is included in the total income of an assessee any income on which no income-tax is payable under the provisions of this Act, the assessee shall be entitled to a deduction, from the amount of income-tax with which he is chargeable on his total income, of an amount equal to the income-tax calculated at the average rate of income-tax on the amount on which no income-tax is payable.]

111. Tax on accumulated balance of recognised provident fund.—(1) Where the accumulated balance due to an employee participating in a recognised provident fund is included in his total income, owing to the provisions of rule 8 of Part A of the Fourth Schedule not being applicable, the Income-tax Officer shall calculate

2 Inserted by s 31, F Act, 1965, w e f 1-4-1965
3 Substituted for "65%" by s 10, F (No 2) Act, 1962, w e f 1-4-1962
4 Inserted by s 33 and 3rd Sch , F (No 2) Act, 1967, w e f 1-4-1968
5 Substituted by s 32, F Act, 1965, w e f 1-4-1965

the total of the various sums of [6][tax] in accordance with the provisions of sub-rule (1) of rule 9 thereof.

(2) Where the accumulated balance due to an employee participating in a recognised provident fund which is not included in his total income under the provisions of rule 8 of Part A of the Fourth Schedule becomes payable, super-tax shall be calculated in the manner provided in sub-rule (2) of rule 9 thereof

112.—*Omitted by s 33 of, and the Third Schedule to, the Finance (No 2) Act, 1967, with effect from 1st April 1968*

[7][**112A. Tax on interest on National Savings Certificates (First Issue).**—Where the total income of an assessee, not being a company, includes any interest on National Savings Certificates (First Issue), the tax payable by him on his total income shall be—

[8][(*a*) the amount of income-tax payable on the total income as reduced by the amount of such inclusion, had the total income so reduced been his total income, *plus*

(*b*) the amount of income-tax calculated on the amount of such interest included in the total income at the average rate of income-tax which would have been applicable to the total income if the amount of such interest and the amount of compensation or other payment referred to in [9][sub-clause (*a*) or sub-clause (*b*) or sub-clause (*c*) of] clause (*ii*) of section 28 and of the capital gains, if any, had not formed part of it,]

(*c*) [10]* * * * *

Explanation [11][*1*] [12]* * * * *

[11][*Explanation 2*—For the purposes of this section and [13][section 193], "National Savings Certificates (First Issue)" includes "National Savings Certificates (First Issue)—Bank Series"]]

113.—*Omitted by s 35 of the Finance Act, 1965, with effect from 1st April 1965*

114.—*Substituted by s 11 of the Finance (No 2) Act, 1962, with effect from 1st April 1962, and omitted by s 33 of, and the Third Schedule to, the Finance (No 2) Act, 1967, with effect from 1st April 1968*

[14][**115. Tax on capital gains in case of companies.**—Where the total income of a company includes any income chargeable under the head "Capital gains" relating to capital assets other than short-term capital assets (such income being hereinafter referred to as long-term capital gains), the income-tax payable shall be the aggregate of—

(*i*) the amount of income-tax calculated on the amount of long-term capital gains included in the total income—

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6 Substituted for "income-tax and super-tax" by s 33, F Act, 1965, w e f 1-4-1965
7 Inserted by s 11, F (No 2) Act, 1965, w e f 11-9-1965
8 Substituted by s 24, Taxation Laws (Amendment) Act, 1970, w e f. 1-4-1968
9 Inserted by s 14, F Act, 1973, w e f 1-4-1972
10 Omitted by s 33 and 3rd Sch , F (No 2) Act, 1967, w e f 1-4-1968.
11 Inserted by s 22, F Act, 1966, w e f 1-4-1966
12 Omitted by s 24, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1969
13 Substituted for "sections 112, 114 and 193" by s 33 and 3rd Sch , F (No 2) Act, 1967, w e. f 1-4-1968
14 Substituted by s 11, F (No 2) Act, 1962, w e f 1-4-1962, then by s 37, F. Act, 1965, w e f 1-4-1965, and finally by s 25, F (No 2) Act, 1971, w e f 1-4-1972

[15][(*a*) on so much of the amount of such long-term capital gains as relate to buildings or lands or any rights in buildings or lands—

(*1*) where the company is a company in which the public are substantially interested and the total income of the company (as reduced by the amount of long-term capital gains included therein) does not exceed one hundred thousand rupees, at the rate of forty-seven per cent , and

(*2*) in any other case, at the rate of fifty-five per cent., and

(*b*) on the balance of such long-term capital gains, if any, at the rate of forty-five per cent , and]

(*ii*) the amount of income-tax with which it would have been chargeable had its total income been reduced by the amount of long-term capital gains referred to in clause (*i*)]

CHAPTER XIII

INCOME-TAX AUTHORITIES

A —Appointment and control

116. Income-tax authorities.—There shall be the following classes of Income-tax authorities for the purposes of this Act, namely.—

(*a*) the [16][Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963 (LIV of 1963)],

(*b*) Directors of Inspection,

(*c*) Commissioners of Income-tax [17][and Additional Commissioners of Income-tax],

(*d*) Assistant Commissioners of Income-tax, who may be either Appellate Assistant Commissioners of Income-tax or Inspecting Assistant Commissioners of Income-tax,

(*e*) Income-tax Officers, and

(*f*) Inspectors of Income-tax

117. Appointment of Income-tax authorities.—(1) The Central Government may appoint as many Directors of Inspection, Commissioners of Income-tax, [18][Additional Commissioners of Income-tax,] Appellate or Inspecting Assistant Commissioners of Income-tax and Income-tax Officers of Class I Service, as it thinks fit

(2) The Commissioner may, subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, appoint as many Income-tax Officers of Class II Service and as many Inspectors of Income-tax as may be sanctioned by the Central Government

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[15] Substituted by s 2, F (No 2) Act, 1974, w e f 1-4-1975
[16] Substituted for "Central Board of Revenue" by s 5, Central Boards of Revenue Act, 1963, w e f 1-1-1964
[17] Inserted by s 17, F Act, 1970, w e f 1-4-1970
[18] Inserted by s 18, *ibid*, w e f 1-4-1970

(3) Subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, an Income-tax authority may appoint such executive or ministerial staff as may be necessary to assist it in the execution of its functions

118. Control of Income-tax authorities.—(1) Inspecting Assistant Commissioners shall be subordinate to the Commissioner within whose jurisdiction they perform their functions and also to the Director of Inspection

(2) Income-tax Officers shall be subordinate to the Commissioner and the Inspecting Assistant Commissioner within whose jurisdiction they perform their functions and also to the Director of Inspection

(3) Inspectors of Income-tax shall be subordinate to the Income-tax Officer or other Income-tax authority under whom they are appointed to work and to any other Income-tax authority to whom the said officer or other authority is subordinate

Explanation —For the purposes of sub-section (1), "Director of Inspection" does not include a Deputy Director of Inspection or an Assistant Director of Inspection, and for the purposes of sub-section (2), "Director of Inspection" does not include an Assistant Director of Inspection

[19][**119. Instructions to subordinate authorities.**—(1) The Board may, from time to time, issue such orders, instructions and directions to other Income-tax authorities as it may deem fit for the proper administration of this Act, and such authorities and all other persons employed in the execution of this Act shall observe and follow such orders, instructions and directions of the Board

Provided that no such orders, instructions or directions shall be issued—

(*a*) so as to require any Income-tax authority to make a particular assessment or to dispose of a particular case in a particular manner, or

(*b*) so as to interfere with the discretion of the Appellate Assistant Commissioner in the exercise of his appellate functions

(2) Without prejudice to the generality of the foregoing power,—

(*a*) the Board may, if it considers it necessary or expedient so to do, for the purpose of proper and efficient management of the work of assessment and collection of revenue, issue, from time to time (whether by way of relaxation of any of the provisions of sections 143, 144, 147, 148, 154, 155, 210, 271 and 273 or otherwise), general or special orders in respect of any class of incomes or class of cases, setting forth directions or instructions (not being prejudicial to assessees) as to the guidelines, principles or procedures to be followed by other Income-tax authorities in the work relating to assessment or collection of revenue or the initiation of proceedings for the imposition of penalties and any such order may, if the Board is of opinion that it is necessary in the public interest so to do, be published and circulated in the prescribed manner for general information, **R 111B**

(*b*) the Board may, if it considers it desirable or expedient so to do for avoiding genuine hardship in any case or class of cases, by general or special order, authorise the Commissioner or the Income-tax Officer to admit an application or claim for any exemption, deduction, refund or any other relief under this Act after the expiry of the period specified by or under this Act for making such application or claim and deal with the same on merits in accordance with law

[19] Substituted by s 25, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

(3) Every Income-tax Officer employed in the execution of this Act shall observe and follow such instructions as may be issued to him for his guidance by the Director of Inspection or by the Commissioner or by the Inspecting Assistant Commissioner within whose jurisdiction he performs his functions.]

B —Jurisdiction

120. Jurisdiction of Directors of Inspection.—Directors of Inspection shall perform such functions of any other Income-tax authority as may be assigned to them by the Board

121. Jurisdiction of Commissioners.—(1) Commissioners shall perform their functions in respect of such areas or of such persons or classes of persons or of such incomes or classes of income or of such cases or classes of cases as the Board may direct

[20][(2) Where any directions issued under sub-section (1) have assigned to two or more Commissioners, the same area or the same persons or classes of persons or the same incomes or classes of income or the same cases or classes of cases, they shall have concurrent jurisdiction and shall perform such functions in relation to the said area or persons or classes of persons or incomes or classes of income or cases or classes of cases as the Board may, by general or special order in writing, specify, for the distribution and allocation of the work to be performed]

122. Jurisdiction of Appellate Assistant Commissioners.—(1) Appellate Assistant Commissioners shall perform their functions in respect of such areas or of such persons or classes of persons or of such incomes or classes of income as the Board may direct

(2) Where any directions issued under sub-section (1) have assigned to two or more Appellate Assistant Commissioners, the same area or the same persons or classes of persons or the same incomes or classes of income, they shall perform their functions in accordance with any orders which the Board may make for the distribution and allocation of the work to be performed

[20][**123. Jurisdiction of Inspecting Assistant Commissioners.**—(1) Inspecting Assistant Commissioners shall perform their functions in respect of such areas or of such persons or classes of persons or of such incomes or classes of income or of such cases or classes of cases as the Commissioner may direct.

(2) Where any directions issued under sub-section (1) have assigned to two or more Inspecting Assistant Commissioners, the same area or the same persons or classes of persons or the same incomes or classes of income or the same cases or classes of cases, they shall have concurrent jurisdiction and shall perform such functions in relation to the said area or persons or classes of persons or incomes or classes of income or cases or classes of cases as the Commissioner may, by general or special order in writing, specify, for the distribution and allocation of the work to be performed]

124. Jurisdiction of Income-tax Officers.—[20][(1) Income-tax Officers shall perform their functions in respect of such areas or of such persons or classes of persons or of such incomes or classes of income or of such cases or classes of cases as the Commissioner may direct

(2) Where any directions issued under sub-section (1) have assigned to two or more Income-tax Officers, the same area or the same persons or classes of persons or the same incomes or classes of income or the same cases or classes of cases, they shall

[20] Substituted by s 27, F (No 2) Act, 1967, w e f 1-4-1967

have concurrent jurisdiction [21][and shall perform their functions in relation to the said area, or persons or classes of persons, or incomes or classes of income, or cases or classes of cases, in accordance with such general or special orders in writing as the Commissioner or the Inspecting Assistant Commissioner authorised by the Commissioner in this behalf, may make for the purpose of facilitating the performance of such functions]]

(3) Within the limits of the area assigned to him, the Income-tax Officer shall have jurisdiction—

(*a*) in respect of any person carrying on a business or profession, if the place at which he carries on his business or profession is situate within the area, or where his business or profession is carried on in more places than one, if the principal place of his business or profession is situate within the area, and

(*b*) in respect of any other person residing within the area

(4) Where a question arises under this section as to whether an Income-tax Officer has jurisdiction to assess any person, the question shall be determined by the Commissioner, or where the question is one relating to areas within the jurisdiction of different Commissioners, by the Commissioners concerned or, if they are not in agreement, by the Board

(5) No person shall be entitled to call in question the jurisdiction of an Income-tax Officer—

(*a*) after the expiry of one month from the date on which he has made a return under sub-section (1) of section 139 or after the completion of the assessment, whichever is earlier,

(*b*) where he has made no such return, after the expiry of the time allowed by the notice under sub-section (2) of section 139 or under section 148 for the making of the return

(6) Subject to the provisions of sub-section (5), where an assessee calls in question the jurisdiction of an Income-tax Officer, then the Income-tax Officer shall, if not satisfied with the correctness of the claim, refer the matter for determination under sub-section (4) before assessment is made

(7) Notwithstanding anything contained in this section [22][or in section 130A], every Income-tax Officer shall have all the powers conferred by or under this Act on an Income-tax Officer in respect of any income accruing or arising or received within the area for which he is appointed

[23][**125. Powers of Commissioner respecting specified areas, cases, persons, etc.**— (1) The Commissioner may, by general or special order in writing, direct that—

(*a*) the powers conferred on the Income-tax Officer and the Appellate Assistant Commissioner by or under this Act shall, in respect of any specified case or class of cases or of any specified person or class of persons, be exercised by the Inspecting Assistant Commissioner and the Commissioner respectively,

(*b*) such of the functions assigned to the Income-tax Officer by or under this Act, as are specified in any such order may, in respect of any specified area, case or class of cases, person or class of persons or class of incomes, be performed by an Inspector of Income-tax or any member of the

[21] Substituted by s 29, Taxation Laws (Amendment) Act, 1975, w e f 1-10-1975
[22] Inserted by s 27, F (No 2) Act, 1967, w e f 1-4-1967
[23] Substituted, *ibid*, w e f 1-4-1967

ministerial staff, subordinate to the Commissioner or any other Income-tax authority subordinate to him, and specified in such order, subject to such conditions, restrictions or limitations as may be specified therein:

Provided that the Commissioner shall not, unless he is authorised in this behalf by the Board by general or special order in writing, make an order under clause (*b*) in relation to the functions of an Income-tax Officer mentioned in the following provisions of this Act, namely, sections 131, 132, 132A, [24][132B,] 140A, 143, 144, 146, 147, 148, 162, 163, 171, 172, 174, 175, 176, 177, 178, 183, 184, 185, 189, 221, 222, 226, 228, [25][228A,] 253, [1][271 to 273 (both inclusive) and 274].

(2) For the purposes of any case or person or proceeding under this Act in respect of which or whom an order under sub-section (1) applies,—

(*a*) where such order is made under clause (*a*) of the said sub-section (1), references in this Act or in any rule made hereunder, to the Income-tax Officer and the Appellate Assistant Commissioner shall be deemed to be references to the Inspecting Assistant Commissioner and the Commissioner, respectively, and,—

(*i*) any provision of this Act requiring an approval or sanction of the Inspecting Assistant Commissioner shall not apply,

(*ii*) any appeal which would otherwise have lain to the Appellate Assistant Commissioner shall lie to the Commissioner;

(*iii*) any appeal which would have lain from an order of the Appellate Assistant Commissioner to the Appellate Tribunal shall lie from the order of the Commissioner;

(*b*) where such order is made under clause (*b*) of the said sub-section (1), references in this Act or in any rule made hereunder to the Income-tax Officer shall be deemed to include references to the Inspector of Income-tax or the member of the ministerial staff specified in such order]

[2][**125A. Concurrent jurisdiction of Inspecting Assistant Commissioner and Income-tax Officer.**—(1) The Commissioner may, by general or special order in writing, direct that all or any of the powers or functions conferred on, or assigned to, the Income-tax Officer or Income-tax Officers by or under this Act in respect of any area, or persons or classes of persons, or incomes or classes of income, or cases or classes of cases, shall be exercised or performed concurrently by the Inspecting Assistant Commissioner

(2) Where under sub-section (1), an Inspecting Assistant Commissioner exercises concurrent jurisdiction with one or more Income-tax Officers in respect of any area, or persons or classes of persons, or incomes or classes of income, or cases or classes of cases, the Income-tax Officer or Income-tax Officers shall exercise the powers and perform the functions under this Act in relation thereto as the Inspecting Assistant Commissioner may direct

(3) Without prejudice to the generality of the provisions contained in sub-section (3) of section 119, every Income-tax Officer shall also observe and follow such instructions as may be issued to him for his guidance by the Inspecting Assistant Commissioner within whose jurisdiction he performs his functions in relation to any particular proceeding or the initiation of any proceeding under this Act·

24 Inserted by s 30, Taxation Laws (Amendment) Act, 1975, w e f 1-10-1975
25 Inserted by s 24, F Act, 1972, w e f 1-4-1972
1 Substituted for "and 271 to 274 (both inclusive)" by s 30, Taxation Laws (Amendment) Act, 1975, w e f 1-10-1975
2 Inserted by s 31, *ibid*, w e f 1-10-1975

Provided that no instructions, which are prejudicial to the assessee, shall be issued before an opportunity is given to the assessee to be heard

Explanation —For the purposes of this sub-section, no instruction as to the lines on which an investigation connected with the assessment should be made shall be deemed to be an instruction prejudicial to the assessee.

(4) Where an order is made under sub-section (1) and the Inspecting Assistant Commissioner exercises the powers or performs the functions of an Income-tax Officer in relation to any area, or persons or classes of persons, or incomes or classes of income, or cases or classes of cases, references in this Act or in any rule made thereunder to the Income-tax Officer and the Appellate Assistant Commissioner shall be construed as references to the Inspecting Assistant Commissioner and the Commissioner respectively and, accordingly —

(*i*) any provision of this Act requiring approval or sanction of the Inspecting Assistant Commissioner shall not apply,

(*ii*) any appeal which would otherwise have lain to the Appellate Assistant Commissioner shall lie to the Commissioner,

(*iii*) any appeal which would have lain from an order of the Appellate Assistant Commissioner to the Appellate Tribunal shall lie from the order of the Commissioner]

126. Powers of Board respecting specified area, classes of persons or incomes.—Notwithstanding anything contained in the foregoing sections, the Board may, by notification in the Official Gazette, empower Commissioners, Appellate Assistant Commissioners, Inspecting Assistant Commissioners and Income-tax Officers to perform such functions in respect of such area or of such classes of persons or of such classes of income as may be specified in the notification, and thereupon the functions so specified shall cease to be performed in respect of the area or classes of persons or classes of income by the other authorities under section 121, section 122, section 123 or section 124.

[3][**127. Power to transfer cases.**—[4][(1) The Commissioner may, after giving the assessee a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, transfer any case from one or more of the following officers subordinate to him, namely —

(*a*) any Income-tax Officer or Income-tax Officers,

(*b*) any Income-tax Officer or Income-tax Officers having concurrent jurisdiction with the Inspecting Assistant Commissioner,

to any other Income-tax Officer or Income-tax Officers (whether with or without concurrent jurisdiction with the Inspecting Assistant Commissioner) also subordinate to him and the Board may similarly transfer any case from—

(*i*) any Income-tax Officer or Income-tax Officers, or

(*ii*) any Income-tax Officer or Income-tax Officers having concurrent jurisdiction with the Inspecting Assistant Commissioner,

to any other Income-tax Officer or Income-tax Officers (whether with or without concurrent jurisdiction with the Inspecting Assistant Commissioner)

Provided that nothing in this sub-section shall be deemed to require any such opportunity to be given where the transfer is from any Income-tax Officer or Income-

[3] Substituted by s 27, F (No 2) Act, 1967, w e f 1-4-1967
[4] Substituted by s 32, Taxation Laws (Amendment) Act, 1975, w e f 1-10-1975

tax Officers (whether with or without concurrent jurisdiction with the Inspec Assistant Commissioner) to any other Income-tax Officer or Income-tax Off (whether with or without concurrent jurisdiction with the Inspecting Assis Commissioner) and the offices of all such officers are situated in the same city, loc or place

Provided further that—

(*a*) where any case has been transferred from any Income-tax Officer or Inc tax Officers to two or more Income-tax Officers, the Income-tax Office whom the case is so transferred shall have concurrent jurisdiction over case and shall perform their functions in accordance with such gener special orders in writing as the Board or the Commissioner or the Inspe Assistant Commissioner authorised by the Commissioner in this be may make for the purpose of facilitating the performance of such functi

(*b*) where any case has been transferred from any Income-tax Officer or Inc tax Officers (whether with or without concurrent jurisdiction with Inspecting Assistant Commissioner) to two or more Income-tax Officers concurrent jurisdiction with the Inspecting Assistant Commissioner, officers (including the Inspecting Assistant Commissioner) to whom the is so transferred shall have concurrent jurisdiction over such case and perform their functions in accordance with such general or special o in writing as the Board or the Commissioner may make for the purpo facilitating the performance of such functions, and the Income-tax Off shall perform their functions also in accordance with such orders or direc as the Inspecting Assistant Commissioner may make under sub-section (section 124 or, as the case may be, under sub-section (2) of section 125A.]

(2) The transfer of a case under sub-section (1) may be made at any stage o proceedings, and shall not render necessary the reissue of any notice already is by the Income-tax Officer or Income-tax Officers from whom the case is transfe

Explanation—In this section and in sections 121, 123, 124 and 125, the "case", in relation to any person whose name is specified in any order or dire issued thereunder, means all proceedings under this Act in respect of any year w may be pending on the date of such order or direction or which may have completed on or before such date, and includes also all proceedings under this which may be commenced after the date of such order or direction in respe any year]

[5][**128. Functions of Inspectors of Income-tax.**—Inspectors of Income-tax perform such functions in the execution of this Act as are assigned to them b Commissioner by an order, whether made under clause (*b*) of sub-section (1) of se 125 or otherwise, or by any other Income-tax authority under whom they appointed to work]

129. Change of incumbent of an office.—Whenever in respect of any procee under this Act an Income-tax authority ceases to exercise jurisdiction and is succe by another who has and exercises jurisdiction, the Income-tax authority so succee may continue the proceeding from the stage at which the proceeding was left b predecessor

Provided that the assessee concerned may demand that before the procee is so continued the previous proceeding or any part thereof be reopened or before any order of assessment is passed against him, he be reheard.

[5] Substituted by s 27, F (No 2) Act, 1967, w e f 1-4-1967

[6][130. **Commissioner competent to perform any function or functions.**—(1) In respect of any function to be performed by a Commissioner under any provision of this Act in relation to an assessee, the Commissioner referred to therein shall,—

(*a*) in a case where only one Commissioner has jurisdiction over such assessee, be such Commissioner,

(*b*) in a case where two or more Commissioners have concurrent jurisdiction over such assessee, be the Commissioner empowered to perform such function by the Board

(2) Subject to the provisions of sub-section (1), for the purposes of sections 253, 254, 256, 263 and 264, the Commissioner referred to therein shall, in relation to an assessee, be the Commissioner having for the time being jurisdiction over the assessee]

[7][130A. **Income-tax Officer competent to perform any function or functions.**—In respect of any function to be performed by an Income-tax Officer under any provision of this Act in relation to an assessee, the Income-tax Officer referred to therein shall,—

(*a*) in a case where only one Income-tax Officer has jurisdiction over such assessee, be such Income-tax Officer,

(*b*) in a case where two or more Income-tax Officers have concurrent jurisdiction over such assessee, be the Income-tax Officer empowered to perform such function by the Board or, as the case may be, the Income-tax Officer to whom such function has been assigned by an order of the Commissioner or of the Inspecting Assistant Commissioner authorised by the Commissioner in this behalf,

[8][(*c*) in a case where two or more Income-tax Officers have concurrent jurisdiction over such assessee in relation to any function, be the Income-tax Officers empowered to perform such function by the Board or, as the case may be, the Income-tax Officers to whom such function has been assigned by an order of the Commissioner or by an order or a direction of the Inspecting Assistant Commissioner under sub-section (2) of section 124 or, as the case may be, under sub-section (2) of section 125A]]

C —Powers

131. Power regarding discovery, production of evidence, etc.—(1) The Income-tax Officer, Appellate Assistant Commissioner, [9][Inspecting Assistant Commissioner] and Commissioner shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (V of 1908), when trying a suit in respect of the following matters, namely —

(*a*) discovery and inspection,

(*b*) enforcing the attendance of any person, including any officer of a banking company and examining him on oath,

(*c*) compelling the production of books of account and other documents, and

(*d*) issuing commissions

[10][(1A) If the Assistant Director of Inspection has reason to suspect that any income has been concealed, or is likely to be concealed, by any person or class of persons, within his jurisdiction, then, for the purpose of making any enquiry or investigation

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[6] Substituted by s 19, F Act, 1970, w e f 1-4-1970
[7] Inserted by s 27, F (No 2) Act, 1967, w e f 1-4-1967
[8] Inserted by s 33, Taxation Laws (Amendment) Act, 1975, w e f 1-10-1975
[9] Inserted by s 38, F Act, 1965, w e f 1-4-1965
[10] Inserted by s 34, Taxation Laws (Amendment) Act, 1975, w e f 1-10-1975

relating thereto, it shall be competent for him to exercise the powers conferred under sub-section (1) on the Income-tax authorities referred to in that sub-section, notwithstanding that no proceedings with respect to such person or class of persons are pending before him or any other Income-tax authority]

(2) Without prejudice to the provisions of any other law for the time being in force, where a person to whom a summons is issued either to attend to give evidence or produce books of account or other documents at a certain place and time, intentionally omits to attend or produce the books of account or documents at the place or time, the Income-tax authority may impose upon him such fine not exceeding five hundred rupees as it thinks fit, and the fine so levied may be recovered in the manner provided in Chapter XVII-D

(3) Subject to any rules made in this behalf, any authority referred to in sub-section (1) [11][or sub-section (1A)] may impound and retain in its custody for such period as it thinks fit any books of account or other documents produced before it in any proceeding under this Act

Provided that an Income-tax Officer [11][or an Assistant Director of Inspection] shall not—

(*a*) impound any books of account or other documents without recording his reasons for so doing, or

(*b*) retain in his custody any such books or documents for a period exceeding fifteen days (exclusive of holidays) without obtaining the approval of the Commissioner therefor

[12][**132. Search and seizure.**—(1) Where the Director of Inspection or the Commissioner [13][or any such Deputy Director of Inspection or Inspecting Assistant Commissioner as may be empowered in this behalf by the Board], in consequence of information in his possession, has reason to believe that—

(*a*) any person to whom a summons under sub-section (1) of section 37 of the Indian Income-tax Act, 1922 (XI of 1922), or under sub-section (1) of section 131 of this Act, or a notice under sub-section (4) of section 22 of the Indian Income-tax Act, 1922, or under sub-section (1) of section 142 of this Act was issued to produce, or cause to be produced, any books of account or other documents has omitted or failed to produce, or cause to be produced, such books of account or other documents as required by such summons or notice, or

(*b*) any person to whom a summons or notice as aforesaid has been or might be issued will not, or would not, produce or cause to be produced, any books of account or other documents which will be useful for, or relevant to, any proceeding under the Indian Income-tax Act, 1922 (XI of 1922), or under this Act, or

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[11] Inserted by s 34, Taxation Laws (Amendment) Act, 1975, w e f 1-10-1975

[12] S 132 substituted by s 30, F Act, 1964, w e f 1-4-1964, and s 132 and s 132A (now renumbered "132B") substituted by s 2, I T (Amendment) Act, 1965, w. e f 12-3-1965

"*Validation of certain searches made*—Any search of a building or place by an Inspecting Assistant Commissioner or Income-tax Officer purported to have been made in pursuance of sub-section (1) of section 132 of the principal Act before the commencement of this Act shall be deemed to have been made in accordance with the provisions of that sub-section as amended by this Act as if those provisions were in force on the day the search was made and shall not be called in question before any court of law or any other authority merely on the ground—

(*i*) that the Inspecting Assistant Commissioner or the Income-tax Officer made such search with the assistance of any other person, or

(*ii*) that no proceeding under the Indian Income-tax Act, 1922 (XI of 1922), or the principal Act was pending against the person concerned when the search was authorised under the said sub-section"—*S 6, I T (Amendment) Act, 1965*

[13] Inserted by s 35, Taxation Laws (Amendment) Act, 1975, w e f 1-10-1975

(*c*) any person is in possession of any money, bullion, jewellery or other valuable article or thing and such money, bullion, jewellery or other valuable article or thing represents either wholly or partly income or property [14][which has not been, or would not be, disclosed] for the purposes of the Indian Income-tax Act, 1922 (XI of 1922), or this Act (hereinafter in this section referred to as the undisclosed income or property),

[15][then,—

(*A*) the Director of Inspection or the Commissioner, as the case may be, may authorise any Deputy Director of Inspection, Inspecting Assistant Commissioner, Assistant Director of Inspection or Income-tax Officer, or

(*B*) such Deputy Director of Inspection or Inspecting Assistant Commissioner, as the case may be, may authorise any Assistant Director of Inspection or Income-tax Officer,

(the officer so authorised in all cases being hereinafter referred to as the authorised officer) to—]

(*i*) enter and search any [16][building, place, vessel, vehicle or aircraft] where he has reason to suspect that such books of account, other documents, money, bullion, jewellery or other valuable article or thing are kept,

(*ii*) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by clause (*i*) where the keys thereof are not available,

[17][(*ii-a*) search any person who has got out of, or is about to get into, or is in, the building, place, vessel, vehicle or aircraft, if the authorised officer has reason to suspect that such person has secreted about his person any such books of account, other documents, money, bullion, jewellery or other valuable article or thing,]

(*iii*) seize any such books of account, other documents, money, bullion, jewellery or other valuable article or thing found as a result of such search,

(*iv*) place marks of identification on any books of account or other documents or make or cause to be made extracts or copies therefrom,

(*v*) make a note or an inventory of any such money, bullion, jewellery or other valuable article or thing

[17][Provided that where any building, place, vessel, vehicle or aircraft referred to in clause (*i*) is within the area of jurisdiction of any Commissioner, but such Commissioner has no jurisdiction over the person referred to in clause (*a*) or clause (*b*) or clause (*c*), then, notwithstanding anything contained in section 121, it shall be competent for him to exercise the powers under this sub-section in all cases where he has reason to believe that any delay in getting the authorisation from the Commissioner having jurisdiction over such person may be prejudicial to the interests of the revenue]

[17][(1A) Where any Commissioner, in consequence of information in his possession, has reason to suspect that any books of account, other documents, money, bullion,

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[14] Substituted for "which has not been disclosed" by s 35, Taxation Laws (Amendment) Act, 1975, w e f 1-10-1975

[15] Substituted for "he may authorise any Deputy Director of Inspection, Inspecting Assistant Commissioner, Assistant Director of Inspection or Income-tax Officer (hereinafter referred to as the authorised officer) to—", *ibid*, w e f 1-10-1975

[16] Substituted for "building or place", *ibid*, w e f 1-10-1975

[17] Inserted, *ibid*, w e f 1-10-1975

jewellery or other valuable article or thing in respect of which an officer has been authorised by the Director of Inspection or any other Commissioner or any such Deputy Director of Inspection or Inspecting Assistant Commissioner as may be empowered in this behalf by the Board to take action under clauses (*i*) to (*v*) of sub-section (1) are or is kept in any building, place, vessel, vehicle or aircraft not mentioned in the authorisation under sub-section (1), such Commissioner may, notwithstanding anything contained in section 121, authorise the said officer to take action under any of the clauses aforesaid in respect of such building, place, vessel, vehicle or aircraft.]

(2) The authorised officer may requisition the services of any police officer or of any officer of the Central Government, or of both, to assist him for all or any of the purposes specified in sub-section (1) [18][or sub-section (1A)] and it shall be the duty of every such officer to comply with such requisition

(3) The authorised officer may, where it is not practicable to seize any such books of account, other document, money, bullion, jewellery or other valuable article or thing, serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of such officer and such officer may take such steps as may be necessary for ensuring compliance with this sub-section

(4) The authorised officer may, during the course of the search or seizure, examine on oath any person who is found to be in possession or control of any books of account, documents, money, bullion, jewellery or other valuable article or thing and any statement made by such person during such examination may thereafter be used in evidence in any proceeding under the Indian Income-tax Act, 1922 (XI of 1922), or under this Act

[18][(4A) Where any books of account, other documents, money, bullion, jewellery or other valuable article or thing are or is found in the possession or control of any person in the course of a search, it may be presumed—

(*i*) that such books of account, other documents, money, bullion, jewellery or other valuable article or thing belong or belongs to such person,

(*ii*) that the contents of such books of account and other documents are true, and

(*iii*) that the signature and every other part of such books of account and other documents which purport to be in the handwriting of any particular person or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in that person's handwriting, and in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested]

Rr 112A, 112B (5) [19][Where any money, bullion, jewellery or other valuable article or thing (hereafter in this section and in sections 132A and 132B referred to as the assets) is seized under sub-section (1) or sub-section (1A), the Income-tax Officer, after affording a reasonable opportunity to the person concerned of being heard and making such inquiry as may be prescribed, shall, within ninety days of the seizure, make an order, with the previous approval of the Inspecting Assistant Commissioner,—]

(*i*) estimating the undisclosed income (including the income from the undisclosed property) in a summary manner to the best of his judgment on the basis of such materials as are available with him,

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[18] Inserted by s 35, Taxation Laws (Amendment) Act, 1975, w e f 1-10-1975
[19] Substituted, *ibid*, w e f 1-10-1975

(ii) calculating the amount of tax on the income so estimated in accordance with the provisions of the Indian Income-tax Act, 1922 (XI of 1922), or this Act,

[20][(ii-a) determining the amount of interest payable and the amount of penalty imposable in accordance with the provisions of the Indian Income-tax Act, 1922 (XI of 1922), or this Act, as if the order had been the order of regular assessment,]

(iii) specifying the amount that will be required to satisfy any existing liability under this Act and any one or more of the Acts specified in clause (a) of sub-section (1) of section 230A in respect of which such person is in default or is deemed to be in default,

and retain in his custody such assets or part thereof as are in his opinion sufficient to satisfy the aggregate of the amounts referred to in clauses (ii), [20][(ii-a)] and (iii) and forthwith release the remaining portion, if any, of the assets to the person from whose custody they were seized

Provided that if, after taking into account the materials available with him, the Income-tax Officer is of the view that it is not possible to ascertain to which particular previous year or years such income or any part thereof relates, he may calculate the tax on such income or part, as the case may be, as if such income or part were the total income chargeable to tax at the rates in force in the financial year in which the assets were seized [20][and may also determine the interest or penalty, if any, payable or imposable accordingly]

Provided further that where a person has paid or made satisfactory arrangements for payment of all the amounts referred to in clauses (ii), [20][(ii-a)] and (iii) or any part thereof, the Income-tax Officer may, with the previous approval of the Commissioner, release the assets or such part thereof as he may deem fit in the circumstances of the case

(6) The assets retained under sub-section (5) may be dealt with in accordance with the provisions of section [21][132B]

(7) If the Income-tax Officer is satisfied that the seized assets or any part thereof were held by such person for or on behalf of any other person, the Income-tax Officer may proceed under sub-section (5) against such other person and all the provisions of this section shall apply accordingly

(8) The books of account or other documents seized under sub-section (1) [22][or sub-section (1A)] shall not be retained by the authorised officer for a period exceeding one hundred and eighty days from the date of the seizure unless the reasons for retaining the same are recorded by him in writing and the approval of the Commissioner for such retention is obtained

Provided that the Commissioner shall not authorise the retention of the books of account and other documents for a period exceeding thirty days after all the proceedings under the Indian Income-tax Act, 1922 (XI of 1922), or this Act in respect of the years for which the books of account or other documents are relevant are completed

(9) The person from whose custody any books of account or other documents are seized under sub-section (1) [22][or sub-section (1A)] may make copies thereof, or take extracts therefrom, in the presence of the authorised officer or any other person empowered by him in this behalf, at such place and time as the authorised officer may appoint in this behalf

[20] Inserted by s 35, Taxation Laws (Amendment) Act, 1975, w e f 1-10-1975
[21] Substituted for "132A", *ibid*, w e f 1-10-1975
[22] Inserted, *ibid*, w e f 1-10-1975

[23][(9A) Where the authorised officer has no jurisdiction over the person referred to in clause (*a*) or clause (*b*) or clause (*c*) of sub-section (1), the books of account or other documents or assets seized under that sub-section shall be handed over by the authorised officer to the Income-tax Officer having jurisdiction over such person within a period of fifteen days of such seizure and thereupon the powers exercisable by the authorised officer under sub-section (8) or sub-section (9) shall be exercisable by such Income-tax Officer]

(10) If a person legally entitled to the books of account or other documents seized under sub-section (1) [23][or sub-section (1A)] objects for any reason to the approval given by the Commissioner under sub-section (8), he may make an application to the Board stating therein the reasons for such objection and requesting for the return of the books of account or other documents

(11) If any person objects for any reason to an order made under sub-section (5), he may, within thirty days of the date of such order, make an application to such authority, as may be notified in this behalf by the Central Government in the Official Gazette (hereinafter in this section referred to as the notified authority), stating therein the reasons for such objection and requesting for appropriate relief in the matter

(12) On receipt of the application under sub-section (10) the Board, or on receipt of the application under sub-section (11) the notified authority, may, after giving the applicant an opportunity of being heard, pass such orders as it thinks fit

[24][(13) The provisions of the Code of Criminal Procedure, 1973 (II of 1974), relating to searches and seizure shall apply, so far as may be, to searches and seizure under sub-section (1) or sub-section (1A)]

Rr 112-112C (14) The Board may make rules in relation to any search or seizure under this section, in particular, and without prejudice to the generality of the foregoing power, such rules may provide for the procedure to be followed by the authorised officer—

(*i*) for obtaining ingress into [25][any building, place, vessel, vehicle or aircraft] to be searched where free ingress thereto is not available;

(*ii*) for ensuring safe custody of any books of account or other documents or assets seized.

Explanation 1 —In computing the period of ninety days for the purposes of sub-section (5), any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded.

Explanation 2 —In this section, the word "proceeding" means any proceeding in respect of any year, whether under the Indian Income-tax Act, 1922 (XI of 1922), or this Act, which may be pending on the date on which a search is authorised under this section or which may have been completed on or before such date and includes also all proceedings under this Act which may be commenced after such date in respect of any year

[1][**132A. Powers to requisition books of account, etc.**—(1) Where the Director of Inspection or the Commissioner, in consequence of information in his possession, has reason to believe that—

(*a*) any person to whom a summons under sub-section (1) of section 37 of the Indian Income-tax Act, 1922 (XI of 1922), or under sub-section (1) of section 131 of this Act, or a notice under sub-section (4) of section 22 of the Indian

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[23] Inserted by s 35, Taxation Laws (Amendment) Act, 1975, w e f 1-10-1975
[24] Substituted, *ibid*, w e f 1-10-1975
[25] Substituted for "such building or place", *ibid*, w e f. 1-10-1975
[1] Inserted by s 36, *ibid*, w e f 1-10-1975

Income-tax Act, 1922, or under sub-section (1) of section 142 of this Act was issued to produce, or cause to be produced, any books of account or other documents has omitted or failed to produce, or cause to be produced, such books of account or other documents, as required by such summons or notice and the said books of account or other documents have been taken into custody by any officer or authority under any other law for the time being in force, or

(*b*) any books of account or other documents will be useful for, or relevant to, any proceeding under the Indian Income-tax Act, 1922 (XI of 1922), or under this Act and any person to whom a summons or notice as aforesaid has been or might be issued will not, or would not, produce or cause to be produced, such books of account or other documents on the return of such books of account or other documents by any officer or authority by whom or which such books of account or other documents have been taken into custody under any other law for the time being in force, or

(*c*) any assets represent either wholly or partly income or property which has not been, or would not have been, disclosed for the purposes of the Indian Income-tax Act, 1922 (XI of 1922), or this Act by any person from whose possession or control such assets have been taken into custody by any officer or authority under any other law for the time being in force,

then, the Director of Inspection or the Commissioner may authorise any Deputy Director of Inspection, Inspecting Assistant Commissioner, Assistant Director of Inspection or Income-tax Officer (hereafter in this section and in sub-section (2) of section 278D referred to as the requisitioning officer) to require the officer or authority referred to in clause (*a*) or clause (*b*) or clause (*c*), as the case may be, to deliver such books of account, other documents or assets to the requisitioning officer

(2) On a requisition being made under sub-section (1), the officer or authority referred to in clause (*a*) or clause (*b*) or clause (*c*), as the case may be, of that sub-section shall deliver the books of account, other documents or assets to the requisitioning officer either forthwith or when such officer or authority is of the opinion that it is no longer necessary to retain the same in his or its custody

(3) Where any books of account, other documents or assets have been delivered to the requisitioning officer, the provisions of sub-sections (4A) to (14) (both inclusive) of section 132 and section 132B shall, so far as may be, apply as if such books of account, other documents or assets had been seized under sub-section (1) of section 132 by the requisitioning officer from the custody of the person referred to in clause (*a*) or clause (*b*) or clause (*c*), as the case may be, of sub-section (1) of this section and as if for the words "the authorised officer" occurring in any of the aforesaid sub-sections (4A) to (14), the words "the requisitioning officer" were substituted]

[2][132B]. **Application of retained assets.**—(1) The assets retained under sub-section (5) of section 132 may be dealt with in the following manner, namely —

(*i*) The amount of the existing liability referred to in clause (*iii*) of the said sub-section and the amount of the liability determined on completion of the regular assessment or reassessment for all the assessment years relevant to the previous years to which the income referred to in clause (*i*) of that sub-section relates [3][(including any penalty levied or interest payable in connection with such assessment or reassessment)] and in respect of which

[2] S 132A inserted by s 2, I T (Amendment) Act, 1965, w e f 12-3-1965, and renumbered "132B" by s 36, Taxation Laws (Amendment) Act, 1975, w e f 1-10-1975 See p 302, f n 12
[3] Inserted by s 36, Taxation Laws (Amendment) Act, 1975, w e f 1-10-1975

he is in default or is deemed to be in default may be recovered out of such assets

(ii) If the assets consist solely of money, or partly of money and partly of other assets, the Income-tax Officer may apply such money in the discharge of the liabilities referred to in clause (i) and the assessee shall be discharged of such liability to the extent of the money so applied.

(iii) The assets other than money may also be applied for the discharge of any such liability referred to in clause (i) as remains undischarged and for this purpose such assets shall be deemed to be under distraint as if such distraint was effected by the Income-tax Officer under authorisation from the Commissioner under sub-section (5) of section 226 and the Income-tax Officer may recover the amount of such liabilities by the sale of such assets and such sale shall be effected in the manner laid down in the Third Schedule

(2) Nothing contained in sub-section (1) shall preclude the recovery of the amount of liabilities aforesaid by any other mode laid down in this Act

R 112C (3) Any assets or proceeds thereof which remain after the liabilities referred to in clause (i) of sub-section (1) are discharged shall be forthwith made over or paid to the persons from whose custody the assets were seized

R 119A (4) (a) The Central Government shall pay simple interest at the rate of [4][twelve] per cent per annum on the amount by which the aggregate of money retained under section 132 and of the proceeds, if any, of the assets sold towards the discharge of the existing liability referred to in clause (iii) of sub-section (5) of that section exceeds the aggregate of the amounts required to meet the liabilities referred to in clause (i) of sub-section (1) of this section

(b) Such interest shall run from the date immediately following the expiry of the period of six months from the date of the order under sub-section (5) of section 132 to the date of the regular assessment or reassessment referred to in clause (i) of sub-section (1) or, as the case may be, to the date of last of such assessments or reassessments.]

R 12 **133. Power to call for information.**—The Income-tax Officer, the Appellate Assistant Commissioner or the Inspecting Assistant Commissioner may, for the purposes of this Act, —

(1) require any firm to furnish him with a return of the names and addresses of the partners of the firm and their respective shares,

(2) require any Hindu undivided family to furnish him with a return of the names and addresses of the manager and the members of the family,

(3) require any person whom he has reason to believe to be a trustee, guardian or agent, to furnish him with a return of the names of the persons for or of whom he is trustee, guardian or agent, and of their addresses,

(4) require any assessee to furnish a statement of the names and addresses of all persons to whom he has paid in any previous year rent, interest, commission, royalty or brokerage, or any annuity, not being any annuity taxable under the head "Salaries" amounting to more than four hundred rupees, together with particulars of all such payments made,

(5) require any dealer, broker or agent or any person concerned in the management of a stock or commodity Exchange to furnish a statement of the names and addresses of all persons to whom he or the Exchange has

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4 "Nine" substituted for "six" by s 4, Taxation Laws (Amendment) Act, 1967, w. e f 1-10-1967, and "twelve" for "nine" by s 25, F Act, 1972, w e f 1-4-1972 See p 314, f n. 20

paid any sum in connection with the transfer, whether by way of sale, exchange or otherwise, of assets, or on whose behalf or from whom he or the Exchange has received any such sum, together with particulars of all such payments and receipts,

(6) require any person, including a banking company or any officer thereof, to furnish information in relation to such points or matters, or to furnish statements of accounts and affairs verified in the manner specified by the Income-tax Officer, the Appellate Assistant Commissioner or the Inspecting Assistant Commissioner, giving information in relation to such points or matters as, in the opinion of the Income-tax Officer, the Appellate Assistant Commissioner or the Inspecting Assistant Commissioner, will be useful for, or relevant to, any proceeding under this Act

[5][**133A. Power of survey.**—(1) Notwithstanding anything contained in any other provision of this Act, an Income-tax authority may enter—

(*a*) any place within the limits of the area assigned to him, or

(*b*) any place occupied by any person in respect of whom he exercises jurisdiction,

at which a business or profession is carried on, whether such place be the principal place or not of such business or profession, and require any proprietor, employee or any other person who may at that time and place be attending in any manner to, or helping in, the carrying on of such business or profession—

(*i*) to afford him the necessary facility to inspect such books of account or other documents as he may require and which may be available at such place,

(*ii*) to afford him the necessary facility to check or verify the cash, stock or other valuable article or thing which may be found therein, and

(*iii*) to furnish such information as he may require as to any matter which may be useful for, or relevant to, any proceeding under this Act

Explanation—For the purposes of this sub-section, a place where a business or profession is carried on shall also include any other place, whether any business or profession is carried on therein or not, in which the person carrying on the business or profession states that any of his books of account or other documents or any part of his cash or stock or other valuable article or thing relating to his business or profession are or is kept

(2) An Income-tax authority may enter any place of business or profession referred to in sub-section (1) only during the hours at which such place is open for the conduct of business or profession and, in the case of any other place, only after sunrise and before sunset

(3) An Income-tax authority acting under this section may,—

(*i*) if he so deems necessary, place marks of identification on the books of account or other documents inspected by him and make or cause to be made extracts or copies therefrom,

(*ii*) make an inventory of any cash, stock or other valuable article or thing checked or verified by him,

(*iii*) record the statement of any person which may be useful for, or relevant to, any proceeding under this Act.

[5] Inserted by s 31, F Act, 1964, w e f 1-4-1964, and substituted by s 37, Taxation Laws (Amendment) Act, 1975, w e f 1-10-1975

(4) An Income-tax authority acting under this section shall, on no account, remove or cause to be removed from the place wherein he has entered, any books of account or other documents or any cash, stock or other valuable article or thing.

(5) Where, having regard to the nature and scale of expenditure incurred by an assessee, in connection with any function, ceremony or event, the Income-tax authority is of the opinion that it is necessary or expedient so to do, he may, at any time after such function, ceremony or event, require the assessee by whom such expenditure has been incurred or any person who, in the opinion of the Income-tax authority, is likely to possess information as respects the expenditure incurred, to furnish such information as he may require as to any matter which may be useful for, or relevant to, any proceeding under this Act and may have the statements of the assessee or any other person recorded and any statement so recorded may thereafter be used in evidence in any proceeding under this Act.

(6) If a person under this section is required to afford facility to the Income-tax authority to inspect books of account or other documents or to check or verify any cash, stock or other valuable article or thing or to furnish any information or to have his statement recorded either refuses or evades to do so, the Income-tax authority shall have all the powers under sub-sections (1) and (2) of section 131 for enforcing compliance with the requirement made

Explanation —In this section,—

(*a*) "Income-tax authority" means an Inspecting Assistant Commissioner, an Assistant Director of Inspection or an Income-tax Officer, and for the purposes of clause (*i*) of sub-section (1), clause (*i*) of sub-section (3) and sub-section (5), includes an Inspector of Income-tax, if so authorised by the Income-tax Officer;

(*b*) "proceeding" means any proceeding under this Act in respect of any year which may be pending on the date on which the powers under this section are exercised or which may have been completed on or before such date and includes also all proceedings under this Act which may be commenced after such date in respect of any year]

134. Power to inspect registers of companies.—The Income-tax Officer, the Appellate Assistant Commissioner or the Inspecting Assistant Commissioner, or any person subordinate to him authorised in writing in this behalf by the Income-tax Officer, the Appellate Assistant Commissioner or the Inspecting Assistant Commissioner, may inspect, and if necessary, take copies, or cause copies to be taken, of any register of the members, debenture holders or mortgagees of any company or of any entry in such register.

135. Power of Director of Inspection, Commissioner and Inspecting Assistant Commissioner.—The Director of Inspection, the Commissioner and the Inspecting Assistant Commissioner shall be competent to make any enquiry under this Act, and for this purpose shall have all the powers that an Income-tax Officer has under this Act in relation to the making of enquiries

136. Proceedings before Income-tax authorities to be judicial proceedings.—Any proceeding under this Act before an Income-tax authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code (XLV of 1860)

D —Disclosure of information

137.—*Omitted by s 32 of the Finance Act, 1964, with effect from 1st April 1964.*

[6][138. **Disclosure of information respecting assessees.**—[7][(1) (*a*) The Board or any other Income-tax authority specified by it by a general or special order in this behalf may furnish or cause to be furnished to—

(*i*) any officer, authority or body performing any functions under any law relating to the imposition of any tax, duty or cess, or to dealings in foreign exchange as defined in section 2(*d*) of the Foreign Exchange Regulation Act, 1947 (VII of 1947); or

(*ii*) such officer, authority or body performing functions under any other law as the Central Government may, if in its opinion it is necessary so to do in the public interest, specify by notification in the Official Gazette in this behalf,

any such information relating to any assessee in respect of any assessment made under this Act or the Indian Income-tax Act, 1922 (XI of 1922), as may, in the opinion of the Board or other Income-tax authority, be necessary for the purpose of enabling the officer, authority or body to perform his or its functions under that law.

(*b*) Where a person makes an application to the Commissioner in the prescribed form for any information relating to any assessee in respect of any assessment made under this Act or the Indian Income-tax Act, 1922 (XI of 1922), on or after the 1st day of April, 1960, the Commissioner may, if he is satisfied that it is in the public interest so to do, furnish or cause to be furnished the information asked for in respect of that assessment only and his decision in this behalf shall be final and shall not be called in question in any court of law] R 113

(2) Notwithstanding anything contained in sub-section (1) or any other law for the time being in force, the Central Government may, having regard to the practices and usages customary or any other relevant factors, by order notified in the Official Gazette, direct that no information or document shall be furnished or produced by a public servant in respect of such matters relating to such class of assessees or except to such authorities as may be specified in the order.]

CHAPTER XIV

PROCEDURE FOR ASSESSMENT

139. Return of income.—(1) Every person, if his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to income-tax, shall furnish a return of his income or the income of such other person during the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed— Rr 12, 12A

(*a*) in the case of every person whose total income, or the total income of any other person in respect of which he is assessable under this Act, includes any income from business or profession, before the expiry of [8][four] months from the end of the previous year or where there is more than one previous year, from the end of the previous year which expired last before the commencement of the assessment year, or before the 30th day of June of the assessment year, whichever is later,

[6] Substituted by s 33, F Act, 1964, w e f 1-4-1964.
[7] Substituted by s 28, F (No 2) Act, 1967, w e f 1-4-1967
[8] Substituted for "six" by s 26, F Act, 1972, w e f 1-4-1972

(*b*) in the case of every other person, before the 30th day of June of the assessment year

R 13 [9][Provided that, on an application made in the prescribed manner, the Income-tax Officer may, in his discretion, extend the date for furnishing the return, and, notwithstanding that the date is so extended, interest shall be chargeable in accordance with the provisions of sub-section (8)]

[10][(1A) Notwithstanding anything contained in sub-section (1), no person need furnish under that sub-section a return of his income or the income of any other person in respect of whose total income he is assessable under this Act, if his income or, as the case may be, the income of such other person during the previous year consisted only of income chargeable under the head "Salaries" or of income chargeable under that head and also income of the nature referred to in any one or more of clauses (*i*) to (*ix*) of sub-section (1) of section 80L and the following conditions are fulfilled, namely·—

(*a*) where he or such other person was employed during the previous year by a company, he or such other person was at no time during the previous year a director of the company or a beneficial owner of shares in the company (not being shares entitled to a fixed rate of dividend whether with or without a right to participate in profits) carrying not less than twenty per cent. of the voting power,

(*b*) his salary or the salary of such other person, exclusive of the value of all benefits or amenities not provided for by way of monetary payment, does not exceed eighteen thousand rupees,

(*c*) the amount of income of the nature referred to in clauses (*i*) to (*ix*) of sub-section (1) of section 80L, if any, does not, in the aggregate, exceed three thousand rupees, and

(*d*) the tax deductible at source under section 192 from the income chargeable under the head "Salaries" has been deducted from that income.

Explanation —For the purposes of this sub-section, "salary" shall have the meaning assigned to it in clause (*1*) of section 17]

Rr 12, 12A (2) In the case of any person who, in the Income-tax Officer's opinion, is assessable under this Act, whether on his own total income or on the total income of any other person during the previous year, the Income-tax Officer may, before the end of the relevant assessment year, [11][issue a notice to him and serve the same upon him] requiring him to furnish, within thirty days from the date of service of the notice, a return of his income or the income of such other person during the previous year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed·

R 13 [12][Provided that, on an application made in the prescribed manner, the Income-tax Officer may, in his discretion, extend the date for furnishing the return, and, notwithstanding that the date is so extended, interest shall be chargeable in accordance with the provisions of sub-section (8)]

Rr 12-13 (3) If any person who has not been served with a notice under sub-section (2), has sustained a loss in any previous year under the head "Profits and gains of

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[9] Substituted by s 26, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

[10] Inserted by s 10, F Act, 1974, w e f 1-4-1975 The original sub-s (1A) retrospectively inserted by s 8, F Act, 1963, and omitted by s 26, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

[11] Substituted for "serve a notice upon him" by s 38, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976

[12] Substituted by s 26, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971, and further substituted by s 26, F Act, 1972, w e f 1-4-1972

business or profession" or under the head "Capital gains" and claims that the loss or any part thereof should be carried forward under sub-section (1) of section 72, or sub-section (2) of section 73, or sub-section (1) of section 74, [13][or sub-section (3) of section 74A], he may furnish, within the time allowed under sub-section (1) [14][or within such further time which, on an application made in the prescribed manner, the Income-tax Officer may, in his discretion, allow], a return of loss in the prescribed form and verified in the prescribed manner and containing such other particulars as may be prescribed, and all the provisions of this Act shall apply as if it were a return under sub-section (1)

[15][(4) (*a*) Any person who has not furnished a return within the time allowed to him under sub-section (1) or sub-section (2) may, before the assessment is made, furnish the return for any previous year at any time before the end of the period specified in clause (*b*), and the provisions of [16][sub-section (8)] shall apply in every such case

(*b*) The period referred to in clause (*a*) shall be—

(*i*) where the return relates to a previous year relevant to any assessment year commencing on or before the 1st day of April, 1967, four years from the end of such assessment year,

(*ii*) where the return relates to a previous year relevant to the assessment year commencing on the 1st day of April, 1968, three years from the end of the assessment year,

(*iii*) where the return relates to a previous year relevant to any other assessment year, two years from the end of such assessment year]

[17][(4A) Every person in receipt of income derived from property held under trust or other legal obligation wholly for charitable or religious purposes or in part only for such purposes, or of income being voluntary contributions referred to in sub-clause (*ii-a*) of clause (*24*) of section 2, shall, if the total income in respect of which he is assessable as a representative assessee (the total income for this purpose being computed under this Act without giving effect to the provisions of sections 11 and 12) exceeds the maximum amount which is not chargeable to income-tax, furnish a return of such income of the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and all the provisions of this Act shall, so far as may be, apply as if it were a return required to be furnished under sub-section (1)] **Rr 12, 12A**

(5) If any person having furnished a return under sub-section (1) or sub-section (2), discovers any omission or any wrong statement therein, he may furnish a revised return at any time before the assessment is made

[18][(6) The prescribed form of the returns referred to in sub-sections (1), (2) and (3) shall, in such cases as may be prescribed, require the assessee to furnish the particulars of income exempt from tax, assets of the prescribed nature and value and belonging to him, expenditure exceeding the prescribed limits incurred by him under prescribed heads and such other outgoings as may be prescribed

(6A) Without prejudice to the provisions of sub-section (6), the prescribed form of the returns referred to in sub-sections (1), (2) and (3) shall, in the case of an assessee

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13 Inserted by s 10, F Act, 1974, w e f 1-4-1975
14 Inserted by s 26, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971
15 Substituted by s 30 and 3rd Sch , F Act, 1968, w e f 1-4-1968
16 Substituted for "clause (*iii*) of the proviso to sub-section (1)" by s 26, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971
17 Inserted by s 20, F Act, 1970, w e f 1-4-1971, and substituted by s 26, F Act, 1972, w e f 1-4-1973
18 Substituted for sub-s (6) by s 38, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976

engaged in any business or profession, also require him to furnish particulars of the location and style of the principal place where he carries on the business or profession and all the branches thereof, the names and addresses of his partners, if any, in such business or profession and, if he is a member of an association or body of individuals, the names of the other members of the association or the body of individuals and the extent of the share of the assessee and the shares of all such partners or the members, as the case may be, in the profits of the business or profession and any branches thereof.]

(7) No return under sub-section (1) need be furnished by any person for any previous year if he has already furnished a return of income for such year in accordance with the provisions of sub-section (2)

R 119A [19][(8) (*a*) [20][Where the return under sub-section (1) or sub-section (2) or sub-section (4) for an assessment year is furnished after the specified date, or is not furnished, then (whether or not the Income-tax Officer has extended the date for furnishing the return under sub-section (1) or sub-section (2)), the assessee shall be liable to pay simple interest at twelve per cent per annum, reckoned from the day immediately following the specified date to the date of the furnishing of the return or, where no return has been furnished, the date of completion of the assessment under section 144, on the amount of the tax payable on the total income as determined on regular assessment, as reduced by the advance tax, if any, paid, and any tax deducted at source

R 117A Provided that the Income-tax Officer may, in such cases and under such circumstances as may be prescribed, reduce or waive the interest payable by any assessee under this sub-section

Explanation 1—For the purposes of this sub-section, "specified date", in relation to a return for an assessment year, means,—

(*a*) in the case of every assessee whose total income, or the total income of any person in respect of which he is assessable under this Act, includes any income from business or profession, the date of the expiry of four months from the end of the previous year or where there is more than one previous year, from the end of the previous year which expired last before the commencement of the assessment year, or the 30th day of June of the assessment year, whichever is later,

(*b*) in the case of every other assessee, the 30th day of June of the assessment year]

Explanation [21][*2*]—For the purposes of this sub-section, where the assessee is a registered firm or an unregistered firm which has been assessed under clause (*b*) of section 183, the tax payable on the total income shall be the amount of tax which would have been payable if the firm had been assessed as an unregistered firm

[19] Inserted by s 8, F Act, 1963, w e f 28-4-1963, and substituted by s 26, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

[20] Substituted by s 26, F Act, 1972, w e f 1-4-1972

"*Applicability of revised rate of interest*—For the removal of doubts, it is hereby declared that where interest is payable under—

(*a*) section 139 of the Income-tax Act or any other provision of that Act referred to in section 25 of this Act, or

(*b*) section 31 or section 34A of the Wealth-tax Act, or

(*c*) section 32 or section 33A of the Gift-tax Act, or

(*d*) section 18 of the Companies (Profits) Surtax Act,

in respect of any period commencing on or before the 31st day of March, 1972, and ending after that date, such interest shall, in respect of so much of such period as falls after that date, be calculated at the rate of twelve per cent per annum"—*S 60, F Act, 1972*

[21] Inserted by s 26, F Act, 1972, w e f 1-4-1972

(*b*) Where as a result of an order under section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 264, the amount of tax on which interest was payable under this sub-section has been reduced, the interest shall be reduced accordingly, and the excess interest paid, if any, shall be refunded]

[22][139A. **Permanent account numbers.**—(1) Every person, if his total income or the total income of any other person in respect of which he is assessable under this Act during any accounting year exceeded the maximum amount which is not chargeable to income-tax and he has not been allotted any permanent account number, shall, within such time as may be prescribed, apply to the Income-tax Officer for the allotment of a permanent account number.

(2) Notwithstanding anything contained in sub-section (1), every person not falling under that sub-section, but carrying on any business whose total sales, turnover or gross receipts are or is likely to exceed fifty thousand rupees in any accounting year and who has not been allotted any permanent account number, shall, within such time as may be prescribed, apply to the Income-tax Officer for the allotment of a permanent account number.

(3) The Income-tax Officer may also allot to any other person by whom tax is payable, a permanent account number

(4) All permanent account numbers allotted to assessees before the commencement of the Taxation Laws (Amendment) Act, 1975, shall, with effect from such date as the Board may, by notification in the Official Gazette, specify, be deemed to have been allotted to them under the provisions of this section.

(5) Where a permanent account number has been allotted or is deemed to have been allotted to any person under this section, he shall—

(*a*) quote such number in all his returns to, or correspondence with, any Income-tax authority,

(*b*) quote such number in all *challans* for the payment of any sum due under this Act,

(*c*) quote such number in all documents pertaining to such transactions as may be prescribed by the Board in the interests of the revenue, and entered into by him,

(*d*) intimate the Income-tax Officer any change in his address or in the name and nature of his business

(6) The Board may make rules providing for—

(*a*) the form and the manner in which an application may be made for the allotment of a permanent account number and the particulars which such application shall contain,

(*b*) the categories of transactions in relation to which permanent account numbers shall be quoted by the persons to whom such numbers have been allotted, in the documents pertaining to such transactions

Explanation —In this section,—

(*a*) "accounting year" means,—

(*i*) in relation to a person maintaining accounts, the year ending on the day on which such accounts are or are to be closed and balanced,

(*ii*) in relation to any other person, the financial year,

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[22] Inserted by s 39, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976

(b) "permanent account number" means a number which the Income-tax Officer may allot to any person for the purpose of identification.]

140. Return by whom to be signed.—The return under section 139 shall be signed and verified—

(a) in the case of an individual, by the individual himself, where the individual is absent from India, by the individual concerned or by some person duly authorised by him in this behalf, and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf,

(b) in the case of a Hindu undivided family, by the Karta, and, where the Karta is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family,

[23][(c) in the case of a company, by the managing director thereof, or where for any unavoidable reason such managing director is not able to sign and verify the return, or where there is no managing director, by any director thereof,

(cc) in the case of a firm, by the managing partner thereof, or where for any unavoidable reason such managing partner is not able to sign and verify the return, or where there is no managing partner as such, by any partner thereof, not being a minor,

(d) in the case of a local authority, by the principal officer thereof,]

(e) in the case of any other association, by any member of the association or the principal officer thereof, and

(f) in the case of any other person, by that person or by some person competent to act on his behalf

[24][**140A. Self assessment.**—[25][(1) Where any tax is payable on the basis of any return required to be furnished under section 139 or section 148, after taking into account the amount of tax, if any, already paid under any provision of this Act, the assessee shall be liable to pay such tax before furnishing the return and the return shall be accompanied by proof of payment of such tax]

(2) After a regular assessment under section 143 or section 144 has been made, any amount paid under sub-section (1) shall be deemed to have been paid towards such regular assessment

[25][(3) If any assessee fails to pay the tax or any part thereof in accordance with the provisions of sub-section (1), the Income-tax Officer may direct that a sum equal to two per cent of such tax or part thereof, as the case may be, shall be recovered from him by way of penalty for every month during which the default continues.

Provided that before levying any such penalty, the assessee shall be given a reasonable opportunity of being heard]]

141.—*Omitted by s 28 of the Taxation Laws (Amendment) Act, 1970, with effect from 1st April 1971.*

[1][**141A. Provisional assessment for refund.**—[2][(1) Where a return has been furnished under section 139 and the assessee claims that the tax paid or deemed to

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[23] Substituted for cls (c) and (d) by s 40, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976
[24] Inserted by s 34, F Act, 1964, w e f 1-4-1964, and substituted by s 27, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971
[25] Substituted by s 41, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976
[1] Inserted by s 11, F Act, 1968, w e f 1-4-1968 The original s 141A inserted by s. 9, F Act, 1963, w e f 1-4-1963, and omitted by s. 35, F. Act, 1964, w e f 1-4-1964
[2] Substituted by s 42, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976

have been paid under the provisions of Chapter XVII-B, or Chapter XVII-C, exceeds the tax payable on the basis of the return and the accounts and documents accompanying it, the Income-tax Officer, if he is of the opinion that the regular assessment of the assessee is not likely to be made within six months from the date of furnishing of the return, shall make in a summary manner within the said six months a provisional assessment of the sum refundable to the assessee, after making such adjustments to the income or loss declared in the return as are required to be made under sub-section (2) with reference to such return, accounts and documents, and for the purposes of the adjustments referred to in clause (*iv*) of sub-section (2), also with reference to the records of the assessments, if any, of past years]

[3][(2) In making any assessment under this section, the Income-tax Officer shall make the following adjustments to the income or loss declared in the return, that is to say, he shall—

(*i*) rectify any arithmetical errors in the return, accounts and documents referred to in sub-section (1);

(*ii*) allow any deduction, allowance or relief which, on the basis of the information available in such return, accounts and documents, is, prima facie, admissible, but is not claimed in the return,

(*iii*) disallow any deduction, allowance or relief claimed in the return which, on the basis of the information available in such return, accounts and documents, is, prima facie, inadmissible,

(*iv*) give due effect to the allowance referred to in sub-section (2) of section 32, the deduction referred to in clause (*ii*) of sub-section (2) of section 33 or clause (*ii*) of sub-section (2) of section 33A or clause (*i*) of sub-section (2) of section 35 or sub-section (1) of section 35A or sub-section (1) of section 35D or sub-section (1) of section 35E or the first proviso to clause (*ix*) of sub-section (1) of section 36, any loss carried forward under sub-section (1) of section 72 or sub-section (2) of section 73 or sub-section (1) of section 74 [4][or sub-section (3) of section 74A] and the deficiency referred to in sub-section (3) of section 80J, as computed, in each case, in the regular assessment, if any, for the earlier assessment year or years]

(3) A firm may be assessed under sub-section (1) as an unregistered firm, except in the following cases, where it shall be assessed as a registered firm—

(*a*) where the firm was assessed as a registered firm for the latest assessment year for which its assessment has been completed, and it has before the expiry of the period laid down in Chapter XVI-B filed its application for registration or declaration under sub-section (7) of section 184 for the assessment year for which the provisional assessment is to be made,

(*b*) where no regular assessment has been made on the firm for any assessment year preceding the assessment year for which the provisional assessment is to be made, and the firm has before the expiry of the period laid down in Chapter XVI-B filed its application for registration or declaration as aforesaid, for the assessment year for which the provisional assessment is to be made

(4) After a regular assessment has been made, any amount refunded on provisional assessment made under sub-section (1) shall be dealt with in the manner specified hereunder, namely —

(*a*) where the sum refundable on regular assessment is equal to or exceeds the amount refunded under sub-section (1), the amount so refunded shall be deemed to have been refunded towards the regular assessment,

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[3] Substituted by s 29, Taxation Laws (Amendment) Act, 1970, w e f. 1-4-1971
[4] Inserted by s 13, F Act, 1974, w e f 1-4-1975

(*b*) where no refund is due on regular assessment or the amount refunded under sub-section (1) exceeds the amount refundable on regular assessment, the whole or the excess amount so refunded shall be deemed to be tax payable by the assessee and the provisions of this Act shall apply accordingly

(5) Nothing done or suffered by reason or in consequence of any provisional assessment made under this section shall prejudice the determination, on the merits, of any issue which may arise in the course of the regular assessment

(6) There shall be no right of appeal against a provisional assessment made under sub-section (1)]

142. Inquiry before assessment.—(1) For the purpose of making an assessment under this Act, the Income-tax Officer may serve on any person who has made a return under section 139 or [5][to whom a notice has been issued] under sub-section (2) of section 139 (whether a return has been made or not) a notice requiring him, on a date to be therein specified,—

(*i*) to produce, or cause to be produced, such accounts or documents as the Income-tax Officer may require, or

R 14 (*ii*) to furnish in writing and verified in the prescribed manner information in such form and on such points or matters (including a statement of all assets and liabilities of the assessee, whether included in the accounts or not) as the Income-tax Officer may require

Provided that—

(*a*) the previous approval of the Inspecting Assistant Commissioner shall be obtained before requiring the assessee to furnish a statement of all assets and liabilities not included in the accounts;

(*b*) the Income-tax Officer shall not require the production of any accounts relating to a period more than three years prior to the previous year.

(2) For the purpose of obtaining full information in respect of the income or loss of any person, the Income-tax Officer may make such inquiry as he considers necessary

[6][(2A) If, at any stage of the proceedings before him, the Income-tax Officer, having regard to the nature and complexity of the accounts of the assessee and the interests of the revenue, is of the opinion that it is necessary so to do, he may, with the previous approval of the Commissioner, direct the assessee to get the accounts audited by an accountant, as defined in the *Explanation* below sub-section (2) of section 288, nominated by the Commissioner in this behalf and to furnish a report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed and such other particulars as the Income-tax Officer may require

(2B) The provisions of sub-section (2A) shall have effect notwithstanding that the accounts of the assessee have been audited under any other law for the time being in force or otherwise

(2C) Every report under sub-section (2A) shall be furnished by the assessee to the Income-tax Officer within such period as may be specified by the Income-tax Officer

Provided that the Income-tax Officer may, on an application made in this behalf by the assessee and for any good and sufficient reason, extend the said period

[5] Substituted for "upon whom a notice has been served" by s 43, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976

[6] Inserted by s 43, *ibid*, w e f 1-4-1976

by such further period or periods as he thinks fit; so, however, that the aggregate of the period originally fixed and the period or periods so extended shall not, in any case, exceed one hundred and eighty days from the date on which the direction under sub-section (2A) is received by the assessee

(2D) The expenses of, and incidental to, any audit under sub-section (2A) (including the remuneration of the accountant) shall be determined by the Commissioner (which determination shall be final) and paid by the assessee and in default of such payment, shall be recoverable from the assessee in the manner provided in Chapter XVII-D for the recovery of arrears of tax]

(3) The assessee shall, except where the assessment is made under section 144, be given an opportunity of being heard in respect of any material gathered on the basis of any inquiry under sub-section (2) [7][or any audit under sub-section (2A)] and proposed to be utilised for the purpose of the assessment

[8][**143. Assessment.**—(1) (*a*) Where a return has been made under section 139, the Income-tax Officer may, without requiring the presence of the assessee or the production by him of any evidence in support of the return, make an assessment of the total income or loss of the assessee after making such adjustments to the income or loss declared in the return as are required to be made under clause (*b*), with reference to the return and the accounts and documents, if any, accompanying it, and for the purposes of the adjustments referred to in sub-clause (*iv*) of clause (*b*), also with reference to the record of the assessments, if any, of past years, and determine the sum payable by the assessee or refundable to him on the basis of such assessment.

(*b*) In making an assessment of the total income or loss of the assessee under clause (*a*), the Income-tax Officer shall make the following adjustments to the income or loss declared in the return, that is to say, he shall,—

(*i*) rectify any arithmetical errors in the return, accounts and documents referred to in clause (*a*),

(*ii*) allow any deduction, allowance or relief which, on the basis of the information available in such return, accounts and documents, is, prima facie, admissible, but is not claimed in the return,

(*iii*) disallow any deduction, allowance or relief claimed in the return which, on the basis of the information available in such return, accounts and documents, is, prima facie, inadmissible,

(*iv*) give due effect to the allowance referred to in sub-section (2) of section 32, the deduction referred to in clause (*ii*) of sub-section (2) of section 33 or clause (*ii*) of sub-section (2) of section 33A or clause (*i*) of sub-section (2) of section 35 or sub-section (1) of section 35A or sub-section (1) of section 35D or sub-section (1) of section 35E or the first proviso to clause (*ix*) of sub-section (1) of section 36, any loss carried forward under sub-section (1) of section 72 or sub-section (2) of section 73 or sub-section (1) of section 74 [9][or sub-section (3) of section 74A] and the deficiency referred to in sub-section (3) of section 80J, as computed, in each case, in the regular assessment, if any, for the earlier assessment year or years

(2) Where a return has been made under section 139, and—

(*a*) an assessment having been made under sub-section (1), the assessee makes within one month from the date of service of the notice of demand R 14A

[7] Inserted by s 43, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976
[8] Substituted by s 30, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971
[9] Inserted by s 13, F Act, 1974, w e f 1-4-1975

issued in consequence of such assessment, an application to the Income-tax Officer objecting to the assessment, or

(*b*) whether or not an assessment has been made under sub-section (1), the Income-tax Officer considers it necessary or expedient to verify the correctness and completeness of the return by requiring the presence of the assessee or the production of evidence in this behalf,

the Income-tax Officer shall serve on the assessee a notice requiring him, on a date to be therein specified, either to attend at the Income-tax Officer's office or to produce, or to cause to be there produced, any evidence on which the assessee may rely in support of the return

Provided that, in a case where an assessment has been made under sub-section (1), the notice under this sub-section (except where such notice is in pursuance of an application by the assessee under clause (*a*)) shall not be issued by the Income-tax Officer unless the previous approval of the Inspecting Assistant Commissioner has been obtained to the issue of such notice

Provided further that in a case where the assessment made under sub-section (1) is objected to by the assessee by an application under clause (*a*), the assessee shall not be deemed to be in default in respect of the whole or any part of the amount of the tax demanded in pursuance of the assessment under that sub-section, which is disputed by the assessee, in so far as such amount does not relate to any adjustment referred to in sub-clause (*i*) of clause (*b*) of sub-section (1), and further no interest shall be chargeable under sub-section (2) of section 220 in respect of such disputed amount.

(3) On the day specified in the notice issued under sub-section (2), or as soon afterwards as may be, after hearing such evidence as the assessee may produce and such other evidence as the Income-tax Officer may require on specified points, and after taking into account all relevant material which he has gathered,—

(*a*) in a case where no assessment has been made under sub-section (1), the Income-tax Officer shall, by an order in writing, make an assessment of the total income or loss of the assessee, and determine the sum payable by him or refundable to him on the basis of such assessment,

(*b*) in a case where an assessment has been made under sub-section (1), if either such assessment has been objected to by the assessee by an application under clause (*a*) of sub-section (2) or the Income-tax Officer is of opinion that such assessment is incorrect, inadequate or incomplete in any material respect, the Income-tax Officer shall, by an order in writing, make a fresh assessment of the total income or loss of the assessee, and determine the sum payable by him or refundable to him on the basis of such assessment.

Explanation.—For the purposes of this section,—

(*1*) an assessment under sub-section (1) shall be deemed to be incorrect, inadequate or incomplete in a material respect, if—

(*a*) the amount of the total income as determined under sub-section (1) is greater or smaller than the amount of the total income on which the assessee is properly chargeable under this Act to tax; or

(*b*) the amount of the tax payable as determined under sub-section (1) is greater or smaller than the amount of the tax properly payable under this Act by the assessee, or

(*c*) the amount of any loss as determined under sub-section (1) is greater or smaller than the amount of the loss, if any, determinable under this Act on a proper computation; or

(*d*) the amount of any depreciation allowance, development rebate or any other allowance or deduction as determined under sub-section (1) is greater or smaller than the amount of the depreciation allowance, development rebate or, as the case may be, other allowance or deduction properly allowable under this Act, or

(*e*) the amount of the refund as determined under sub-section (1) is greater or smaller than the amount of the refund, if any, due under this Act on a proper computation, or

(*f*) the status in which the assessee has been assessed under sub-section (1) is different from the status in which the assessee is properly assessable under this Act,

(*2*) "status", in relation to an assessee, means the classification of the assessee as an individual, a Hindu undivided family, or any other category of persons referred to in clause (*31*) of section 2, and where the assessee is a firm, its classification as a registered firm or an unregistered firm]

144. Best judgment assessment.—If any person—

(*a*) fails to make the return required by any notice given under sub-section (2) of section 139 and has not made a return or a revised return under sub-section (4) or sub-section (5) of that section, or

(*b*) fails to comply with all the terms of a notice issued under sub-section (1) of section 142 [10][or fails to comply with a direction issued under sub-section (2A) of that section], or

(*c*) having made a return, fails to comply with all the terms of a notice issued under sub-section (2) of section 143,

the Income-tax Officer, after taking into account all relevant material which the Income-tax Officer has gathered, shall make the assessment of the total income or loss to the best of his judgment and determine the sum payable by the assessee or refundable to the assessee on the basis of such assessment

[11][**144A. Power of Inspecting Assistant Commissioner to issue directions in certain cases.**—(1) An Inspecting Assistant Commissioner may, on his own motion or on a reference being made to him by the Income-tax Officer or on the application of an assessee, call for and examine the record of any proceeding in which an assessment is pending and, if he considers that, having regard to the nature of the case or the amount involved or for any other reason, it is necessary or expedient so to do, he may issue such directions as he thinks fit for the guidance of the Income-tax Officer to enable him to complete the assessment and such directions shall be binding on the Income-tax Officer

Provided that no directions which are prejudicial to the assessee shall be issued before an opportunity is given to the assessee to be heard

Explanation—For the purposes of this sub-section, no direction as to the lines on which an investigation connected with the assessment should be made, shall be deemed to be a direction prejudicial to the assessee

(2) The provisions of this section shall be in addition to, and not in derogation of, the provisions contained in sub-section (3) of section 119

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[10] Inserted by s 44, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976
[11] Inserted by s 45, *ibid*, w e f 1-1-1976

144B. Reference to Inspecting Assistant Commissioner in certain cases.—(1) Notwithstanding anything contained in this Act, where, in an assessment to be made under sub-section (3) of section 143, the Income-tax Officer proposes to make any variation in the income or loss returned which is prejudicial to the assessee and the amount of such variation exceeds the amount fixed by the Board under sub-section (6), the Income-tax Officer shall, in the first instance, forward a draft of the proposed order of assessment (hereafter in this section referred to as the draft order) to the assessee

(2) On receipt of the draft order, the assessee may forward his objections, if any, to such variation to the Income-tax Officer within seven days of the receipt by him of the draft order or within such further period not exceeding fifteen days as the Income-tax Officer may allow on an application made to him in this behalf.

(3) If no objections are received within the period or the extended period aforesaid, or the assessee intimates to the Income-tax Officer the acceptance of the variation, the Income-tax Officer shall complete the assessment on the basis of the draft order

(4) If any objections are received, the Income-tax Officer shall forward the draft order together with the objections to the Inspecting Assistant Commissioner and the Inspecting Assistant Commissioner shall, after considering the draft order and the objections and after going through (wherever necessary) the records relating to the draft order, issue, in respect of the matters covered by the objections, such directions as he thinks fit for the guidance of the Income-tax Officer to enable him to complete the assessment

Provided that no directions which are prejudicial to the assessee shall be issued under this sub-section before an opportunity is given to the assessee to be heard.

(5) Every direction issued by the Inspecting Assistant Commissioner under sub-section (4) shall be binding on the Income-tax Officer.

(6) For the purposes of sub-section (1), the Board may, having regard to the proper and efficient management of the work of assessment, by order, fix, from time to time, such amount as it deems fit

Provided that different amounts may be fixed for different areas

Provided further that the amount fixed under this sub-section shall, in no case, be less than twenty-five thousand rupees

(7) Nothing in this section shall apply to a case where an Inspecting Assistant Commissioner exercises the powers or performs the functions of an Income-tax Officer in pursuance of an order made under section 125 or section 125A]

145. Method of accounting.—(1) Income chargeable under the head "Profits and gains of business or profession" or "Income from other sources" shall be computed in accordance with the method of accounting regularly employed by the assessee

Provided that in any case where the accounts are correct and complete to the satisfaction of the Income-tax Officer but the method employed is such that, in the opinion of the Income-tax Officer, the income cannot properly be deduced therefrom, then the computation shall be made upon such basis and in such manner as the Income-tax Officer may determine

(2) Where the Income-tax Officer is not satisfied about the correctness or the completeness of the accounts of the assessee, or where no method of accounting has been regularly employed by the assessee, the Income-tax Officer may make an assessment in the manner provided in section 144

146. Reopening of assessment at the instance of the assessee.—[12][(1)] Where an assessee assessed under section 144 makes an application to the Income-tax Officer, within one month from the date of service of a notice of demand issued in consequence of the assessment, for the cancellation of the assessment on the ground—

(i) that he was prevented by sufficient cause from making the return required under sub-section (2) of section 139, or

(ii) that he did not receive the notice issued under sub-section (1) of section 142 or sub-section (2) of section 143, or

(iii) that he had not a reasonable opportunity to comply, or was prevented by sufficient cause from complying, with the terms of any notice referred to in clause (ii),

the Income-tax Officer shall, if satisfied about the existence of such ground, cancel the assessment and proceed to make a fresh assessment in accordance with the provisions of section 143 or [13][section] 144.

[12][(2) Every application made under sub-section (1) shall be disposed of within ninety days from the date of receipt thereof by the Income-tax Officer.

Provided that in computing the period of ninety days aforesaid, any delay in disposing of the application which is attributable to the assessee shall be excluded]

147. Income escaping assessment.—If—

(a) the Income-tax Officer has reason to believe that, by reason of the omission or failure on the part of an assessee to make a return under section 139 for any assessment year to the Income-tax Officer or to disclose fully and truly all material facts necessary for his assessment for that year, income chargeable to tax has escaped assessment for that year, or

(b) notwithstanding that there has been no omission or failure as mentioned in clause (a) on the part of the assessee, the Income-tax Officer has in consequence of information in his possession reason to believe that income chargeable to tax has escaped assessment for any assessment year,

he may, subject to the provisions of sections 148 to 153, assess or reassess such income or recompute the loss or the depreciation allowance, as the case may be, for the assessment year concerned (hereafter in sections 148 to 153 referred to as the relevant assessment year)

Explanation 1.—For the purposes of this section, the following shall also be deemed to be cases where income chargeable to tax has escaped assessment, namely —

(a) where income chargeable to tax has been under-assessed; or

(b) where such income has been assessed at too low a rate, or

(c) where such income has been made the subject of excessive relief under this Act or under the Indian Income-tax Act, 1922 (XI of 1922); or

(d) where excessive loss or depreciation allowance has been computed

Explanation 2.—Production before the Income-tax Officer of account books or other evidence from which material evidence could with due diligence have been discovered by the Income-tax Officer will not necessarily amount to disclosure within the meaning of this section

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[12] Inserted by s 46, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976
[13] Inserted by s 10, F Act, 1963, w e f 28-4-1963

148. Issue of notice where income has escaped assessment.—(1) Before making the assessment, reassessment or recomputation under section 147, the Income-tax Officer shall serve on the assessee a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 139, and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section

(2) The Income-tax Officer shall, before issuing any notice under this section, record his reasons for doing so

149. Time limit for notice.—(1) No notice under section 148 shall be issued,

(*a*) in cases falling under clause (*a*) of section 147—

(*i*) for the relevant assessment year, if eight years have elapsed from the end of that year, unless the case falls under sub-clause (*ii*),

(*ii*) for the relevant assessment year, where eight years, but not more than sixteen years, have elapsed from the end of that year, unless the income chargeable to tax which has escaped assessment amounts to or is likely to amount to rupees fifty thousand or more for that year,

(*b*) in cases falling under clause (*b*) of section 147, at any time after the expiry of four years from the end of the relevant assessment year

(2) The provisions of sub-section (1) as to the issue of notice shall be subject to the provisions of section 151

(3) If the person on whom a notice under section 148 is to be served is a person treated as the agent of a non-resident under section 163 and the assessment, reassessment or recomputation to be made in pursuance of the notice is to be made on him as the agent of such non-resident, the notice shall not be issued after the expiry of a period of two years from the end of the relevant assessment year

150. Provision for cases where assessment is in pursuance of an order on appeal, etc.—(1) Notwithstanding anything contained in section 149, the notice under section 148 may be issued at any time for the purpose of making an assessment or reassessment or recomputation in consequence of or to give effect to any finding or direction contained in an order passed by any authority in any proceeding under this Act by way of appeal, reference or revision

(2) The provisions of sub-section (1) shall not apply in any case where any such assessment, reassessment or recomputation as is referred to in that sub-section relates to an assessment year in respect of which an assessment, reassessment or recomputation could not have been made at the time the order which was the subject-matter of the appeal, reference or revision, as the case may be, was made by reason of any other provision limiting the time within which any action for assessment, reassessment or recomputation may be taken

151. Sanction for issue of notice.—(1) No notice shall be issued under section 148 after the expiry of eight years from the end of the relevant assessment year, unless the Board is satisfied on the reasons recorded by the Income-tax Officer that it is a fit case for the issue of such notice

(2) No notice shall be issued under section 148 after the expiry of four years from the end of the relevant assessment year, unless the Commissioner is satisfied on the reasons recorded by the Income-tax Officer that it is a fit case for the issue of such notice

152 Other provisions.—(1) In an assessment, reassessment or recomputation made under section 147, the tax shall be chargeable at the rate or rates at which it would have been charged had the income not escaped assessment

(2) Where an assessment is reopened in circumstances falling under clause (*b*) of section 147, the assessee may, if he has not impugned any part of the original assessment order for that year either under sections 246 to 248 or under section 264, claim that the proceedings under section 147 shall be dropped on his showing that he had been assessed on an amount or to a sum not lower than what he would be rightly liable for even if the income alleged to have escaped assessment had been taken into account, or the assessment or computation had been properly made.

Provided that in so doing he shall not be entitled to reopen matters concluded by an order under section 154, 155, 260, 262 or 263

153. Time limit for completion of assessments and reassessments.—(1) No order of assessment shall be made under section 143 or section 144 at any time after—

[14][(*a*) the expiry of—

(*i*) four years from the end of the assessment year in which the income was first assessable, where such assessment year is an assessment year commencing on or before the 1st day of April, 1967,

(*ii*) three years from the end of the assessment year in which the income was first assessable, where such assessment year is the assessment year commencing on the 1st day of April, 1968,

(*iii*) two years from the end of the assessment year in which the income was first assessable, where such assessment year is an assessment year commencing on or after the 1st day of April, 1969, or]

(*b*) the expiry of eight years from the end of the assessment year in which the income was first assessable, in a case falling within clause (*c*) of sub-section (1) of section 271, or

(*c*) the expiry of one year from the date of the filing of a return or a revised return under sub-section (4) or sub-section (5) of section 139,

whichever is latest

(2) No order of assessment, reassessment or recomputation shall be made under section 147—

(*a*) where the assessment, reassessment or recomputation is to be made under clause (*a*) of that section, after the expiry of four years from the end of the assessment year in which the notice under section 148 was served,

(*b*) where the assessment, reassessment or recomputation is to be made under clause (*b*) of that section, after—

(*i*) the expiry of four years from the end of the assessment year in which the income was first assessable, or

(*ii*) the expiry of one year from the date of service of the notice under section 148,

whichever is later

[15][(2A) Notwithstanding anything contained in sub-sections (1) and (2), in relation to the assessment year commencing on the 1st day of April, 1971, and any subsequent assessment year, an order of fresh assessment under section 146 or in pursuance of an order, under section 250, section 254, section 263 or section 264, setting aside or cancelling an assessment, may be made at any time before the expiry of two years from

[14] Substituted by s 12, F Act, 1968, w e f 1-4-1968
[15] Inserted by s 31, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

the end of the financial year in which the order under section 146 cancelling the assessment is passed by the Income-tax Officer or the order under section 250 or section 254 is received by the Commissioner or, as the case may be, the order under section 263 or section 264 is passed by the Commissioner]

(3) The provisions of sub-sections (1) and (2) shall not apply to the following classes of assessments, reassessments and recomputations which may, [16][subject to the provisions of sub-section (2A),] be completed at any time—

(*i*) where a fresh assessment is made under section 146,

(*ii*) where the assessment, reassessment or recomputation is made on the assessee or any person in consequence of or to give effect to any finding or direction contained in an order under section 250, 254, 260, 262, 263 or 264 [17][or in an order of any court in a proceeding otherwise than by way of appeal or reference under this Act],

(*iii*) where, in the case of a firm, an assessment is made on a partner of the firm in consequence of an assessment made on the firm under section 147.

[18][*Explanation 1*—In computing the period of limitation for the purposes of this section—

(*i*) the time taken in reopening the whole or any part of the proceeding or in giving an opportunity to the assessee to be reheard under the proviso to section 129, or

(*ii*) the period during which the assessment proceeding is stayed by an order or injunction of any court, or

(*iii*) the period commencing from the date on which the Income-tax Officer directs the assessee to get his accounts audited under sub-section (2A) of section 142 and ending with the date on which the assessee furnishes a report of such audit under that sub-section, or

(*iv*) the period (not exceeding one hundred and eighty days) commencing from the date on which the Income-tax Officer forwards the draft order under sub-section (1) of section 144B to the assessee and ending with the date on which the Income-tax Officer receives the directions from the Inspecting Assistant Commissioner under sub-section (4) of that section, or, in a case where no objections to the draft order are received from the assessee, a period of thirty days, or

(*v*) in a case where an application made before the Income-tax Settlement Commission under section 245C is rejected by it or is not allowed to be proceeded with by it, the period commencing from the date on which such application is made and ending with the date on which the order under sub-section (1) of section 245D is received by the Commissioner under sub-section (2) of that section,

shall be excluded]

Explanation 2—Where, by an order [19][referred to in clause (*ii*) of sub-section (3)], any income is excluded from the total income of the assessee for an assessment year, then, an assessment of such income for another assessment year shall, for the purposes of section 150 and this section, be deemed to be one made in consequence of or to give effect to any finding or direction contained in the said order

[16] Inserted by s 31, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971
[17] Inserted by s 6, Direct Taxes (Amendment) Act, 1964, w e f 6-10-1964
[18] Substituted by s 47, Taxation Laws (Amendment) Act, 1975, w e f 1-1-1976 as regards cls (*i*), (*ii*) and (*iv*), and w e f 1-4-1976 as regards cls (*iii*) and (*v*)
[19] Substituted for "under section 250, 254, 260, 262, 263 or 264" by s 6, Direct Taxes (Amendment) Act, 1964, w e f 6-10-1964

Explanation 3.—Where, by an order [20][referred to in clause (*ii*) of sub-section (3)], any income is excluded from the total income of one person and held to be the income of another person, then, an assessment of such income on such other person shall, for the purposes of section 150 and this section, be deemed to be one made in consequence of or to give effect to any finding or direction contained in the said order, provided such other person was given an opportunity of being heard before the said order was passed

154. Rectification of mistake.—(1) With a view to rectifying any mistake apparent from the record—

(*a*) the Income-tax Officer may amend any order of assessment or of refund or any other order passed by him;

(*b*) the Appellate Assistant Commissioner may amend any order passed by him [21][under section 250 or section 271],

[22](*bb*) * * * * *

(*c*) the Commissioner may amend any order passed by him in revision under section 263 or section 264

[22][(1A) Where any matter has been considered and decided in any proceeding by way of appeal or revision relating to an order referred to in sub-section (1), the authority passing such order may, notwithstanding anything contained in any law for the time being in force, amend the order under that sub-section in relation to any matter other than the matter which has been so considered and decided]

(2) Subject to the other provisions of this section, the authority concerned—

(*a*) may make an amendment under sub-section (1) of its own motion, and

(*b*) shall make such amendment for rectifying any such mistake which has been brought to its notice by the assessee, and where the authority concerned is the Appellate Assistant Commissioner, by the Income-tax Officer also

(3) An amendment, which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee, shall not be made under this section unless the authority concerned has given notice to the assessee of its intention so to do and has allowed the assessee a reasonable opportunity of being heard

(4) Where an amendment is made under this section, an order shall be passed in writing by the Income-tax authority concerned

(5) Subject to the provisions of section 241, where any such amendment has the effect of reducing the assessment, the Income-tax Officer shall make any refund which may be due to such assessee

(6) Where any such amendment has the effect of enhancing the assessment or reducing a refund already made, the Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued under section 156 and the provisions of this Act shall apply accordingly

[20] Substituted for "under section 250, 254, 260, 262, 263 or 264" by s 6, Direct Taxes (Amendment) Act, 1964, w e f 6-10-1964
[21] Substituted for "in appeal under section 250" by s 7, Direct Taxes (Amendment) Act, 1964, w e f 6-10-1964
[22] Inserted, *ibid*, w e f 6-10-1964, and cl (*bb*) omitted by s 48, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976

(7) Save as otherwise provided in section 155 or sub-section (4) of section 186 no amendment under this section shall be made after the expiry of four years from the date of the order sought to be amended

155. Other amendments.—(1) Where in respect of any completed assessment of a partner in a firm it is found—

(*a*) on the assessment or reassessment of the firm, or

(*b*) on any reduction or enhancement made in the income of the firm under this section, section 154, section 250, section 254, section 260, section 262, section 263 or section 264,

that the share of the partner in the income of the firm has not been included in the assessment of the partner or, if included, is not correct, the Income-tax Officer may amend the order of assessment of the partner with a view to the inclusion of the share in the assessment or the correction thereof, as the case may be; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the date of the final order passed in the case of the firm

(2) Where in respect of any completed assessment of a member of an association of persons or of a body of individuals it is found—

(*a*) on the assessment or reassessment of the association or body, or

(*b*) on any reduction or enhancement made in the income of the association or body under this section, section 154, section 250, section 254, section 260, section 262, section 263 or section 264,

that the share of the member in the income of the association or body, as the case may be, has not been included in the assessment of the member or, if included, is not correct, the Income-tax Officer may amend the order of assessment of the member with a view to the inclusion of the share in the assessment or the correction thereof, as the case may be, and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the date of the final order passed in the case of the association or body, as the case may be

(3) Where the excess profits tax or the business profits tax payable by an assessee has been modified in appeal, revision or any other proceeding, or where any excess profits tax has been assessed after the completion of the corresponding assessment for income-tax and in consequence thereof, it is necessary to amend the total income of the assessee chargeable to income-tax, the Income-tax Officer may make the necessary amendment and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the date of the order making or modifying the assessment of such excess profits tax or business profits tax, as the case may be

Explanation —For the purposes of this sub-section, where the assessee is a firm, the provisions of sub-section (1) shall also apply as they apply to the amendment of the assessment of the partners of the firm

(4) Where as a result of proceedings initiated under section 147, a loss or depreciation has been recomputed and in consequence thereof it is necessary to recompute the total income of the assessee for the succeeding year or years to which the loss or depreciation allowance has been carried forward and set off under the provisions of sub-section (1) of section 72, or sub-section (2) of section 73, or sub-section (1) of section 74, [23][or sub-section (3) of section 74A,] the Income-tax Officer may proceed

[23] Inserted by s 13, F Act, 1974, w e f 1-4-1975

to recompute the total income in respect of such year or years and make the necessary amendment, and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the date of the order passed under section 147.

(5) Where an allowance by way of development rebate has been made wholly or partly to an assessee in respect of a ship, machinery or plant installed after the 31st day of December, 1957, in any assessment year under section 33 or under the corresponding provisions of the Indian Income-tax Act, 1922 (XI of 1922), and subsequently—

(i) at any time before the expiry of eight years from the end of the previous year in which the ship was acquired or the machinery or plant was installed, the ship, machinery or plant is sold or otherwise transferred by the assessee to any person other than the Government, a local authority, a corporation established by a Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (I of 1956), or in connection with any amalgamation or succession referred to in sub-section (3) or sub-section (4) of section 33, or

(ii) at any time before the expiry of the eight years referred to in sub-section (3) of section 34, the assessee utilises the amount credited to the reserve account under clause (a) of that sub-section—

(a) for distribution by way of dividends or profits, or

(b) for remittance outside India as profits or for the creation of any asset outside India, or

(c) for any other purpose which is not a purpose of the business of the undertaking,

the development rebate originally allowed shall be deemed to have been wrongly allowed, and the Income-tax Officer may, notwithstanding anything contained in this Act, recompute the total income of the assessee for the relevant previous year and make the necessary amendment, and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the sale or transfer took place or the money was so utilised

[24][(5A) Where an allowance by way of development allowance has been made wholly or partly to an assessee in respect of the cost of planting in any area in any assessment year under section 33A and subsequently—

(i) at any time before the expiry of eight years from the end of the previous year in which such allowance was made, the land is sold or otherwise transferred by the assessee to any person other than the Government, a local authority, a corporation established by a Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (I of 1956), or in connection with any amalgamation or succession referred to in sub-section (5) or sub-section (6) of section 33A, or

(ii) at any time before the expiry of the eight years referred to in sub-section (3) of section 33A, the assessee utilises the amount credited to the reserve account under clause (ii) of that sub-section—

(a) for distribution by way of dividends or profits, or

(b) for remittance outside India as profits or for the creation of any asset outside India, or

[24] Inserted by s 39, F Act, 1965, w e f 1-4-1965

(c) for any other purpose which is not a purpose of the business of the undertaking,

the development allowance originally allowed shall be deemed to have been wrongly allowed, and the Income-tax Officer may, notwithstanding anything contained in this Act, recompute the total income of the assessee for the relevant previous year and make the necessary amendment, and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the sale or transfer took place or the money was so utilised

[25][*Explanation* —For the purposes of this sub-section, where an assessee having any leasehold or other right of occupancy in any land transfers such right, he shall be deemed to have sold or otherwise transferred such land]]

(6) Where any such debt or part of debt as is referred to in clause (*vii*) of sub-section (1) of section 36 is written off as irrecoverable in the accounts of the assessee for a previous year and the Income-tax Officer is satisfied that such debt or part thereof became a bad debt in an earlier previous year not falling beyond a period of four previous years immediately preceding the previous year in which the debt or part is written off, the Income-tax Officer may, notwithstanding anything contained in this Act, allow such debt or part as a deduction for such earlier previous year, if the assessee accepts such a finding of the Income-tax Officer, and recompute the total income of the assessee for such earlier previous year and make the necessary amendment, and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the financial year in which the assessment relating to the previous year in which the debt is written off is made

(7) Where as a result of any proceeding under this Act, in the assessment for any year of a company in whose case an order under section 104 has been made for that year, it is necessary to recompute the distributable income of that company, the Income-tax Officer may proceed to recompute the distributable income and determine the [1][tax] payable on the basis of such recomputation and make the necessary amendment, and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the date of the final order passed in the case of the company in respect of that proceeding

(8) Where in the assessment for any year a capital gain arising from the transfer of any such capital asset as is referred to in section 54 is charged to tax and within a period of one year after the date of the transfer the assessee purchases, or within two years from that date constructs, a house property for the purpose of his own residence, the Income-tax Officer shall amend the order of assessment so as to exclude the amount of the capital gain not chargeable to tax under the provisions of section 54, and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the date of the assessment

[2][(9) Where in the assessment for any year, a capital gain arising from the transfer of any such capital asset as is referred to in section 54B is charged to tax and within a period of two years after the date of the transfer the assessee purchases any other land for being used for agricultural purposes, the Income-tax Officer shall amend the order of assessment so as to exclude the amount of the capital gain not chargeable

[25] Retrospectively inserted by s 24, F Act, 1975
[1] Substituted for "super-tax" by s 39, F Act, 1965, w e f 1-4-1965
[2] Inserted by s 15, F Act, 1973, w e f 1-4-1970

to tax under the provisions of section 54B and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the date of the assessment.]

[3][(10) Where in the assessment for any year, a capital gain arising from the transfer by way of compulsory acquisition of any such capital asset as is referred to in section 54D is charged to tax and within a period of three years after the date of the transfer, the assessee purchases any other land or building or any right in any other land or building or constructs any other building for the purposes of shifting or re-establishing the industrial undertaking referred to in that section or setting up another industrial undertaking, the Income-tax Officer shall amend the order of assessment so as to exclude the amount of the capital gain not chargeable to tax under the provisions of section 54D, and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the date of the assessment]

[4][(11) Where in the assessment for any year, the deduction under section 80N in respect of any income, being the whole or any part of income by way of dividends as is referred to in that section, has not been allowed on the ground that such income has not been received in convertible foreign exchange in India, or having been received in convertible foreign exchange outside India, or having been converted into convertible foreign exchange outside India, has not been brought into India, by or on behalf of the assessee in accordance with any law for the time being in force for regulating payments and dealings in foreign exchange and subsequently such income or part thereof is received in, or brought into, India in the manner aforesaid, the Income-tax Officer shall amend the order of assessment so as to allow deduction under section 80N in respect of such income or part thereof as is so received in, or brought into, India, and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the date on which such income is so received in, or brought into, India

(12) Where in the assessment for any year, the deduction under section 80-O in respect of any income, being the whole or any part of income by way of royalty, commission, fees or any similar payment as is referred to in that section, has not been allowed on the ground that such income has not been received in convertible foreign exchange in India, or having been received in convertible foreign exchange outside India, or having been converted into convertible foreign exchange outside India, has not been brought into India, by or on behalf of the assessee in accordance with any law for the time being in force for regulating payments and dealings in foreign exchange and subsequently such income or part thereof is received in, or brought into, India in the manner aforesaid, the Income-tax Officer shall amend the order of assessment so as to allow deduction under section 80-O in respect of such income or part thereof as is so received in, or brought into, India and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the date on which such income is so received in, or brought into, India]

[5][(13) Where in the assessment for any year, any provision made by the assessee for the payment of gratuity to his employees on their retirement or on termination of their employment for any reason has not been allowed as a deduction in the computation of the income of the assessee under the head "Profits and gains of business or profession" on the ground that all the conditions specified in sub-clause (*ii*)(*2*) and sub-clause (*ii*)(*3*) of clause (*b*) of sub-section (7) of section 40A had not been complied

[3] Inserted by s 15, F Act, 1973, w e f 1-4-1974
[4] Inserted by s 13, F Act, 1974, w e f 1-4-1974
[5] Inserted by s 24, F Act, 1975, w e f 1-4-1975

(To be signed by the claimant)

I hereby declare that

bearer bonds
Govt promissory notes/stock certificates/Subsidiary General Ledger Account Balance on which interest, as above specified, has been received

were my own property
were the property of (name of the company) of which I am the principal officer and were

in the possession of at the time when tax was deducted

Date *Signature*

NOTES —(1) Delete the inappropriate words

(2) The securities or in the case of a Subsidiary General Ledger Account Balance, a certificate from the Public Debt Office or office of the Reserve Bank of India concerned, to be produced, when required in support of any claim

(3) This certificate should not be returned to the Public Debt Office In case you desire to claim a refund of the whole or any part of the tax deducted as shown above, on the ground that your total annual income is below the taxable limit or is liable to income-tax at a rate which is less than the rate at which tax has been deducted, you should send this certificate to the Income-tax Officer direct with an application in the prescribed form obtainable from that office

FORM No 18

[See rule 31(3)]

(1) Certificate of deduction of tax from debentures or other securities for money of a local authority or a company or a corporation established by a Central, State or Provincial Act

Name of local authority/company/corporation
Address

To (2)

Name and address of payee (3)

I/We hereby certify that the sum of Rs . has been deducted as specified below —

(*i*) Rs being income-tax at the rate of ,

(*ii*) Rs being surcharge thereon,

from Rs being the amount of interest at the rate of per cent per annum due on (4) on debentures Nos of Rs each of the (5) and that it has been or will be, within the prescribed period, paid by me/us to the Central Government at

Date

(6) *Superintendent, Public Debt Office, or Principal Officer or Managing Agents*

(3) The legal representative of the deceased shall, for the purposes of this Act, be deemed to be an assessee

(4) Every legal representative shall be personally liable for any tax payable by him in his capacity as legal representative if, while his liability for tax remains undischarged, he creates a charge on or disposes of or parts with any assets of the estate of the deceased, which are in, or may come into, his possession, but such liability shall be limited to the value of the asset so charged, disposed of or parted with

(5) The provisions of sub-section (2) of section 161, section 162 and section 167, shall, so far as may be and to the extent to which they are not inconsistent with the provisions of this section, apply in relation to a legal representative

(6) The liability of a legal representative under this section shall, subject to the provisions of sub-section (4) and sub-section (5), be limited to the extent to which the estate is capable of meeting the liability

B —Representative assessees—general provisions

160. Representative assessee.—(1) For the purposes of this Act, "representative assessee" means—

(*i*) in respect of the income of a non-resident specified in clause (*i*) of sub-section (1) of section 9, the agent of the non-resident, including a person who is treated as an agent under section 163,

(*ii*) in respect of the income of a minor, lunatic or idiot, the guardian or manager who is entitled to receive or is in receipt of such income on behalf of such minor, lunatic or idiot,

(*iii*) in respect of income which the Court of Wards, the Administrator-General, the Official Trustee or any receiver or manager (including any person, whatever his designation, who in fact manages property on behalf of another) appointed by or under any order of a court, receives or is entitled to receive, on behalf or for the benefit of any person, such Court of Wards, Administrator-General, Official Trustee, receiver or manager,

(*iv*) in respect of income which a trustee appointed under a trust declared by a duly executed instrument in writing whether testamentary or otherwise (including any Wakf deed which is valid under the Mussalman Wakf Validating Act, 1913 (VI of 1913)) receives or is entitled to receive on behalf or for the benefit of any person, such trustee or trustees

(2) Every representative assessee shall be deemed to be an assessee for the purposes of this Act

161. Liability of representative assessee.—(1) Every representative assessee, as regards the income in respect of which he is a representative assessee, shall be subject to the same duties, responsibilities and liabilities as if the income were income received by or accruing to or in favour of him beneficially, and shall be liable to assessment in his own name in respect of that income, but any such assessment shall be deemed to be made upon him in his representative capacity only, and the tax shall, subject to the other provisions contained in this Chapter, be levied upon and recovered from him in like manner and to the same extent as it would be leviable upon and recoverable from the person represented by him

(2) Where any person is, in respect of any income, assessable under this Chapter in the capacity of a representative assessee, he shall not, in respect of that income, be assessed under any other provision of this Act

162. Right of representative assessee to recover tax paid.—(1) Every representative assessee who, as such, pays any sum under this Act, shall be entitled to recover the sum so paid from the person on whose behalf it is paid, or to retain out of any moneys that may be in his possession or may come to him in his representative capacity, an amount equal to the sum so paid

(2) Any representative assessee, or any person who apprehends that he may be assessed as a representative assessee, may retain out of any money payable by him to the person on whose behalf he is liable to pay tax (hereinafter in this section referred to as the principal), a sum equal to his estimated liability under this Chapter, and in the event of any disagreement between the principal and such representative assessee or person as to the amount to be so retained, such representative assessee or person may secure from the Income-tax Officer a certificate stating the amount to be so retained pending final settlement of the liability, and the certificate so obtained shall be his warrant for retaining that amount

(3) The amount recoverable from such representative assessee or person at the time of final settlement shall not exceed the amount specified in such certificate, except to the extent to which such representative assessee or person may at such time have in his hands additional assets of the principal.

C—Representative assessees—special cases

163. Who may be regarded as agent.—(1) For the purposes of this Act, "agent", in relation to a non-resident, includes any person in India—

(*a*) who is employed by or on behalf of the non-resident, or

(*b*) who has any business connection with the non-resident; or

(*c*) from or through whom the non-resident is in receipt of any income, whether directly or indirectly, or

(*d*) who is the trustee of the non-resident,

and includes also any other person who, whether a resident or non-resident, has acquired by means of a transfer, a capital asset in India

Provided that a broker in India who, in respect of any transactions, does not deal directly with or on behalf of a non-resident principal but deals with or through a non-resident broker shall not be deemed to be an agent under this section in respect of such transactions, if the following conditions are fulfilled, namely.—

(*i*) the transactions are carried on in the ordinary course of business through the first-mentioned broker, and

(*ii*) the non-resident broker is carrying on such transactions in the ordinary course of his business and not as a principal

(2) No person shall be treated as the agent of a non-resident unless he had had an opportunity of being heard by the Income-tax Officer as to his liability to be treated as such

[8][**164. Charge of tax where share of beneficiaries unknown.**—(1) Subject to the provisions of sub-sections (2) and (3), where any income in respect of which the persons mentioned in clauses (*iii*) and (*iv*) of sub-section (1) of section 160 are liable as representative assessees or any part thereof is not specifically receivable on behalf or for the benefit of any one person or where the individual shares of the persons on

[8] Substituted by s 21, F Act, 1970, w e f 1-4-1971

whose behalf or for whose benefit such income or such part thereof is receivable are indeterminate or unknown (such income, such part of the income and such persons being hereafter in this section referred to as "relevant income", "part of relevant income" and "beneficiaries", respectively), tax shall be charged—

(*i*) as if the relevant income or part of relevant income were the total income of an association of persons, or

(*ii*) at the rate of sixty-five per cent,

whichever course would be more beneficial to the revenue

Provided that in a case where—

(*i*) none of the beneficiaries has any other income chargeable under this Act, or

(*ii*) the relevant income or part of relevant income is receivable under a trust declared by will, or

(*iii*) the relevant income or part of relevant income is receivable under a trust created before the 1st day of March, 1970, by a non-testamentary instrument and the Income-tax Officer is satisfied, having regard to all the circumstances existing at the relevant time, that the trust was created bona fide exclusively for the benefit of the relatives of the settlor, or where the settlor is a Hindu undivided family, exclusively for the benefit of the members of such family, in circumstances where such relatives or members were mainly dependent on the settlor for their support and maintenance, or

(*iv*) the relevant income is receivable by the trustees on behalf of a provident fund, superannuation fund, gratuity fund, pension fund or any other fund created bona fide by a person carrying on a business or profession exclusively for the benefit of persons employed in such business or profession,

tax shall be charged as if the relevant income or part of relevant income were the total income of an association of persons

(2) In the case of relevant income which is derived from property held under trust wholly for charitable or religious purposes, [9][or which is of the nature referred to in sub-clause (*ii-a*) of clause (*24*) of section 2,] tax shall be charged on so much of the relevant income as is not exempt under section 11 [9][or section 12], as if the relevant income not so exempt were the income of an association of persons

(3) In a case where the relevant income is derived from property held under trust in part only for charitable or religious purposes [9][or is of the nature referred to in sub-clause (*ii-a*) of clause (*24*) of section 2] and either the relevant income applicable to purposes other than charitable or religious purposes (or any part thereof) is not specifically receivable on behalf of any one person or the individual shares of the beneficiaries in the income so applicable are indeterminate or unknown, the tax chargeable on the relevant income shall be either—

(*a*) the tax which would be chargeable if the whole of the relevant income (as reduced by the income, if any, which is exempt under section 11) were the total income of an association of persons, or

(*b*) the aggregate of—

(*i*) the tax which would be chargeable on that part of the relevant income which is applicable to charitable or religious purposes (as reduced by the income, if any, which is exempt under section 11) as if such part (or such part as so reduced) were the total income of an association of persons, and

[9] Inserted by s 27, F Act, 1972, w e f 1-4-1973

(ii) the tax on that part of the relevant income which is applicable to purposes other than charitable or religious purposes, and in respect of which the shares of the beneficiaries are indeterminate or unknown, at the rate of sixty-five per cent,

whichever course would be more beneficial to the revenue

Provided that in a case where—

(i) none of the beneficiaries in respect of the part of the relevant income which is not applicable to charitable or religious purposes has any other income chargeable under this Act, or

(ii) the relevant income is receivable under a trust declared by will, or

(iii) the relevant income is receivable under a trust created before the 1st day of March, 1970, by a non-testamentary instrument and the Income-tax Officer is satisfied, having regard to all the circumstances existing at the relevant time, that the trust, to the extent it is not for charitable or religious purposes, was created bona fide exclusively for the benefit of the relatives of the settlor, or where the settlor is a Hindu undivided family, exclusively for the benefit of the members of such family, in circumstances where such relatives or members were mainly dependent on the settlor for their support and maintenance,

tax shall be charged as if the relevant income (as reduced by the income, if any, which is exempt under section 11) were the total income of an association of persons]

165. Case where part of trust income is chargeable.—Where part only of the income of a trust is chargeable under this Act, that proportion only of the income receivable by a beneficiary from the trust which the part so chargeable bears to the whole income of the trust shall be deemed to have been derived from that part.

D —Representative assessees—miscellaneous provisions

166. Direct assessment or recovery not barred.—Nothing in the foregoing sections in this Chapter shall prevent either the direct assessment of the person on whose behalf or for whose benefit income therein referred to is receivable, or the recovery from such person of the tax payable in respect of such income

167. Remedies against property in cases of representative assessees.—The Income-tax Officer shall have the same remedies against all property of any kind vested in or under the control or management of any representative assessee as he would have against the property of any person liable to pay any tax, and in as full and ample a manner, whether the demand is raised against the representative assessee or against the beneficiary direct

E —Executors

168. Executors.—(1) Subject as hereinafter provided, the income of the estate of a deceased person shall be chargeable to tax in the hands of the executor,—

(a) if there is only one executor, then, as if the executor were an individual, or

(b) if there are more executors than one, then, as if the executors were an association of persons,

and for the purposes of this Act, the executor shall be deemed to be resident or non-resident according as the deceased person was a resident or non-resident during the previous year in which his death took place

(2) The assessment of an executor under this section shall be made separately from any assessment that may be made on him in respect of his own income

(3) Separate assessments shall be made under this section on the total income of each completed previous year or part thereof as is included in the period from the date of the death to the date of complete distribution to the beneficiaries of the estate according to their several interests

(4) In computing the total income of any previous year under this section, any income of the estate of that previous year distributed to, or applied to the benefit of, any specific legatee of the estate during that previous year shall be excluded, but the income so excluded shall be included in the total income of the previous year of such specific legatee

Explanation —In this section, "executor" includes an administrator or other person administering the estate of a deceased person

169. Right of executor to recover tax paid.—The provisions of section 162 shall, so far as may be, apply in the case of an executor in respect of tax paid or payable by him as they apply in the case of a representative assessee

F—Succession to business or profession

170. Succession to business otherwise than on death.—(1) Where a person carrying on any business or profession (such person hereinafter in this section being referred to as the predecessor) has been succeeded therein by any other person (hereinafter in this section referred to as the successor) who continues to carry on that business or profession,—

(*a*) the predecessor shall be assessed in respect of the income of the previous year in which the succession took place up to the date of succession,

(*b*) the successor shall be assessed in respect of the income of the previous year after the date of succession

(2) Notwithstanding anything contained in sub-section (1), when the predecessor cannot be found, the assessment of the income of the previous year in which the succession took place up to the date of succession and of the previous year preceding that year shall be made on the successor in like manner and to the same extent as it would have been made on the predecessor, and all the provisions of this Act shall, so far as may be, apply accordingly

(3) When any sum payable under this section in respect of the income of such business or profession for the previous year in which the succession took place up to the date of succession or for the previous year preceding that year, assessed on the predecessor, cannot be recovered from him, the Income-tax Officer shall record a finding to that effect and the sum payable by the predecessor shall thereafter be payable by and recoverable from the successor, and the successor shall be entitled to recover from the predecessor any sum so paid

(4) Where any business or profession carried on by a Hindu undivided family is succeeded to, and simultaneously with the succession or after the succession there has been a partition of the joint family property between the members or groups of members, the tax due in respect of the income of the business or profession succeeded to, up to the date of succession, shall be assessed and recovered in the manner provided in section 171, but without prejudice to the provisions of this section

Explanation —For the purposes of this section, "income" includes any gain accruing from the transfer, in any manner whatsoever, of the business or profession as a result of the succession

G.—Partition

171. Assessment after partition of a Hindu undivided family.—(1) A Hindu family hitherto assessed as undivided shall be deemed for the purposes of this Act to continue to be a Hindu undivided family, except where and in so far as a finding of partition has been given under this section in respect of the Hindu undivided family.

(2) Where, at the time of making an assessment under section 143 or section 144, it is claimed by or on behalf of any member of a Hindu family assessed as undivided that a partition, whether total or partial, has taken place among the members of such family, the Income-tax Officer shall make an inquiry thereinto after giving notice of the inquiry to all the members of the family

(3) On the completion of the inquiry, the Income-tax Officer shall record a finding as to whether there has been a total or partial partition of the joint family property, and, if there has been such a partition, the date on which it has taken place

(4) Where a finding of total or partial partition has been recorded by the Income-tax Officer under this section, and the partition took place during the previous year,—

(*a*) the total income of the joint family in respect of the period up to the date of partition shall be assessed as if no partition had taken place, and

(*b*) each member or group of members shall, in addition to any tax for which he or it may be separately liable and notwithstanding anything contained in clause (*2*) of section 10, be jointly and severally liable for the tax on the income so assessed

(5) Where a finding of total or partial partition has been recorded by the Income-tax Officer under this section, and the partition took place after the expiry of the previous year, the total income of the previous year of the joint family shall be assessed as if no partition had taken place, and the provisions of clause (*b*) of sub-section (4) shall, so far as may be, apply to the case

(6) Notwithstanding anything contained in this section, if the Income-tax Officer finds after completion of the assessment of a Hindu undivided family that the family has already effected a partition, whether total or partial, the Income-tax Officer shall proceed to recover the tax from every person who was a member of the family before the partition, and every such person shall be jointly and severally liable for the tax on the income so assessed

(7) For the purposes of this section, the several liability of any member or group of members thereunder shall be computed according to the portion of the joint family property allotted to him or it at the partition, whether total or partial.

(8) The provisions of this section shall, so far as may be, apply in relation to the levy and collection of any penalty, interest, fine or other sum in respect of any period up to the date of the partition, whether total or partial, of a Hindu undivided family as they apply in relation to the levy and collection of tax in respect of any such period.

Explanation —In this section,—

(*a*) "partition" means—

(*i*) where the property admits of a physical division, a physical division of the property, but a physical division of the income without a physical division of the property producing the income shall not be deemed to be a partition, or

(*ii*) where the property does not admit of a physical division, then such division as the property admits of, but a mere severance of status shall not be deemed to be a partition,

(*b*) "partial partition" means a partition which is partial as regards the persons constituting the Hindu undivided family, or the properties belonging to the Hindu undivided family, or both

H—Profits of non-residents from occasional shipping business

172. Shipping business of non-residents.—(1) The provisions of this section shall, notwithstanding anything contained in the other provisions of this Act, apply for the purpose of the levy and recovery of tax in the case of any ship, belonging to or chartered by a non-resident, which carries passengers, live-stock, mail or goods shipped at a port in India [10]* *

(2) Where such a ship carries passengers, live-stock, mail or goods shipped at a port in India, [11][seven and a half per cent] of the amount paid or payable on account of such carriage to the owner or the charterer or to any person on his behalf, whether that amount is paid or payable in or out of India, shall be deemed to be income accruing in India to the owner or charterer on account of such carriage.

(3) Before the departure from any port in India of any such ship, the master of the ship shall prepare and furnish to the Income-tax Officer a return of the full amount paid or payable to the owner or charterer or any person on his behalf, on account of the carriage of all passengers, live-stock, mail or goods shipped at that port since the last arrival of the ship thereat

Provided that where the Income-tax Officer is satisfied that it is not possible for the master of the ship to furnish the return required by this sub-section before the departure of the ship from the port and provided the master of the ship has made satisfactory arrangements for the filing of the return and payment of the tax by any other person on his behalf, the Income-tax Officer may, if the return is filed within thirty days of the departure of the ship, deem the filing of the return by the person so authorised by the master as sufficient compliance with this sub-section

(4) On receipt of the return, the Income-tax Officer shall assess the income referred to in sub-section (2) and determine the sum payable as tax thereon at the rate or rates [12][in force] applicable to the total income of a company which has not made the arrangements referred to in section 194 and such sum shall be payable by the master of the ship

(5) For the purpose of determining the tax payable under sub-section (4), the Income-tax Officer may call for such accounts or documents as he may require

(6) A port clearance shall not be granted to the ship until the Collector of Customs, or other officer duly authorised to grant the same, is satisfied that the tax assessable under this section has been duly paid or that satisfactory arrangements have been made for the payment thereof

(7) Nothing in this section shall be deemed to prevent the owner or charterer of a ship from claiming before the expiry of the assessment year relevant to the previous year in which the date of departure of the ship from the Indian port falls, that an assessment be made of his total income of the previous year and the tax payable on the basis thereof be determined in accordance with the other provisions of this Act, and if he so claims, any payment made under this section in respect of the passengers, live-stock, mail or goods shipped at Indian ports during that previous year shall be treated

[10] "Unless the Income-tax Officer is satisfied that there is an agent of the non-resident from whom the tax will be recoverable under the other provisions of this Act" omitted by s 19, F Act, 1975, w e f 1-6-1975

[11] Substituted for "one-sixth", *ibid*, w e f 1-6-1975

[12] Substituted for "for the time being" by s 29, F (No 2) Act, 1967, w e f 1-4-1967.

FORM No 24

[See rule 35]

Annual return of "Salaries" under section 206 of the Income-tax Act, 1961

Name of employer { *Government office* / *Local authority* / *Company* / *Public body* / *Association* / *Private employer* }

Name of person responsible for paying the salary, etc (if not the employer) Address

Serial No	Name of employee	Postal address of residence	Appointment or nature of employment	Total amount of salary, wages, annuities, pension, gratuities, commission, bonus, fees or profits in lieu of or in addition to salary and wages including payments made at or in connection with the termination of employment and advance of salary, etc, paid during the year ending on 31st March, 19	Leave salary or allowance paid outside India	Periodical cash allowances like house-rent allowance, entertainment allowance, etc, paid during the year (give details)	Period for which the salary, wages, etc, in cols 5 and 6 and periodical cash allowances in col 7 was paid
1	2	3	4	5	6	7	8

any current assessment year that any person is likely to charge, sell, transfer, dispose of or otherwise part with any of his assets with a view to avoiding payment of any liability under the provisions of this Act, the total income of such person for the period from the expiry of the previous year for that assessment year to the date when the Income-tax Officer commences proceedings under this section shall be chargeable to tax in that assessment year, and the provisions of sub-sections (2), (3), (4), (5) and (6) of section 174 shall, so far as may be, apply to any proceedings in the case of any such person as they apply in the case of persons leaving India

L —Discontinuance of business, or dissolution

176. Discontinued business.—(1) Notwithstanding anything contained in section 4, where any business or profession is discontinued in any assessment year, the income of the period from the expiry of the previous year for that assessment year up to the date of such discontinuance may, at the discretion of the Income-tax Officer, be charged to tax in that assessment year.

(2) The total income of each completed previous year or part of any previous year included in such period shall be chargeable to tax at the rate or rates in force in that assessment year, and separate assessments shall be made in respect of each such completed previous year or part of any previous year.

(3) Any person discontinuing any business or profession shall give to the Income-tax Officer notice of such discontinuance within fifteen days thereof.

[13][(3A) Where any business is discontinued in any year, any sum received after the discontinuance shall be deemed to be the income of the recipient and charged to tax accordingly in the year of receipt, if such sum would have been included in the total income of the person who carried on the business had such sum been received before such discontinuance]

(4) Where any profession is discontinued in any year on account of the cessation of the profession by, or the retirement or death of, the person carrying on the profession, any sum received after the discontinuance shall be deemed to be the income of the recipient and charged to tax accordingly in the year of receipt, if such sum would have been included in the total income of the aforesaid person had it been received before such discontinuance

(5) Where an assessment is to be made under the provisions of this section, the Income-tax Officer may serve on the person whose income is to be assessed or, in the case of a firm, on any person who was a partner of such firm at the time of its discontinuance or, in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 139 and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under sub-section (2) of section 139.

(6) The tax chargeable under this section shall be in addition to the tax, if any, chargeable under any other provision of this Act

(7) Where the provisions of sub-section (1) are applicable, any notice issued by the Income-tax Officer under sub-section (2) of section 139 or sub-section (1) of section 148 in respect of any tax chargeable under any other provisions of this Act may, notwithstanding anything contained in sub-section (2) of section 139 or sub-section (1) of section 148, as the case may be, require the furnishing of the return by the person to whom the aforesaid notices are issued within such period, not being less than seven days, as the Income-tax Officer may think proper.

[13] Inserted by s 49, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976

177. Association dissolved or business discontinued.—(1) Where any business or profession carried on by an association of persons has been discontinued or where an association of persons is dissolved, the Income-tax Officer shall make an assessment of the total income of the association of persons as if no such discontinuance or dissolution had taken place, and all the provisions of this Act, including the provisions relating to the levy of a penalty or any other sum chargeable under any provision of this Act shall apply, so far as may be, to such assessment

(2) Without prejudice to the generality of the foregoing sub-section, if the Income-tax Officer or the Appellate Assistant Commissioner in the course of any proceeding under this Act in respect of any such association of persons as is referred to in that sub-section is satisfied that the association of persons was guilty of any of the acts specified in Chapter XXI, he may impose or direct the imposition of a penalty in accordance with the provisions of that Chapter

(3) Every person who was at the time of such discontinuance or dissolution a member of the association of persons, and the legal representative of any such person who is deceased, shall be jointly and severally liable for the amount of tax, penalty or other sum payable, and all the provisions of this Act, so far as may be, shall apply to any such assessment or imposition of penalty or other sum

(4) Where such discontinuance or dissolution takes place after any proceedings in respect of an assessment year have commenced, the proceedings may be continued against the persons referred to in sub-section (3) from the stage at which the proceedings stood at the time of such discontinuance or dissolution, and all the provisions of this Act shall, so far as may be, apply accordingly

(5) Nothing in this section shall affect the provisions of sub-section (6) of section 159

178. Company in liquidation.—(1) Every person—

(*a*) who is the liquidator of any company which is being wound up, whether under the orders of a court or otherwise, or

(*b*) who has been appointed the receiver of any assets of a company,

(hereinafter referred to as the liquidator) shall, within thirty days after he has become such liquidator, give notice of his appointment as such to the Income-tax Officer who is entitled to assess the income of the company

(2) The Income-tax Officer shall, after making such inquiries or calling for such information as he may deem fit, notify to the liquidator within three months from the date on which he receives notice of the appointment of the liquidator the amount which, in the opinion of the Income-tax Officer, would be sufficient to provide for any tax which is then, or is likely thereafter to become, payable by the company

[14][(3) The liquidator—

(*a*) shall not, without the leave of the Commissioner, part with any of the assets of the company or the properties in his hands until he has been notified by the Income-tax Officer under sub-section (2), and

(*b*) on being so notified, shall set aside an amount equal to the amount notified and, until he so sets aside such amount, shall not part with any of the assets of the company or the properties in his hands

Provided that nothing contained in this sub-section shall debar the liquidator from parting with such assets or properties for the purpose of the payment of the tax payable by the company or for making any payment to secured creditors whose debts

[14] Substituted by s 41, F Act, 1965, w e f 1-4-1965

are entitled under law to priority of payment over debts due to Government on the date of liquidation or for meeting such costs and expenses of the winding up of the company as are in the opinion of the Commissioner reasonable

(4) If the liquidator fails to give the notice in accordance with sub-section (1) or fails to set aside the amount as required by sub-section (3) or parts with any of the assets of the company or the properties in his hands in contravention of the provisions of that sub-section, he shall be personally liable for the payment of the tax which the company would be liable to pay

Provided that if the amount of any tax payable by the company is notified under sub-section (2), the personal liability of the liquidator under this sub-section shall be to the extent of such amount]

(5) Where there are more liquidators than one, the obligations and liabilities attached to the liquidator under this section shall attach to all the liquidators jointly and severally

(6) The provisions of this section shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force

[15][*M.—Private companies*]

179. Liability of directors of private company in liquidation.—[16][(1)] Notwithstanding anything contained in the Companies Act, 1956 (I of 1956), [17][where any tax due from a private company in respect of any income of any previous year or from any other company in respect of any income of any previous year during which such other company was a private company] cannot be recovered, then, every person who was a director of the private company at any time during the relevant previous year shall be jointly and severally liable for the payment of such tax unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

[16][(2) Where a private company is converted into a public company and the tax assessed in respect of any income of any previous year during which such company was a private company cannot be recovered, then, nothing contained in sub-section (1) shall apply to any person who was a director of such private company in relation to any tax due in respect of any income of such private company assessable for any assessment year commencing before the 1st day of April, 1962]

N —Special provisions for certain kinds of income

180. Royalties or copyright fees for literary or artistic work.—Where the time taken by the author of a literary or artistic work in the making thereof is more than twelve months, the amount received or receivable by him during any previous year on account of any lump sum consideration for the assignment or grant of any of his interests in the copyright of that work or of royalties or copyright fees (whether receivable in lump sum or otherwise), in respect of that work, shall, if he so claims, be allocated for purposes of assessment in such manner and to such period as may be prescribed R 9

[15] Substituted for "M —Private company in liquidation" by s 50, Taxation Laws (Amendment) Act, 1975, w e f 1-10-1975

[16] Inserted, *ibid*, w e f 1-10-1975

[17] Substituted for "when any private company is wound up after the commencement of this Act, and any tax assessed on the company, whether before or in the course of or after its liquidation, in respect of any income of any previous year", *ibid*, w e f 1-10-1975

Explanation.—For the purposes of this section, the expression "author" includes a joint author, and the expression "lump sum", in regard to royalties or copyright fees, includes an advance payment on account of such royalties or copyright fees which is not returnable.

O.—Liability of State Governments

181. Interest on tax free securities of a State Government.—Income-tax shall be payable by a State Government on the interest on any security issued by it tax free [18][at such rate not exceeding twenty-five per cent. as may be notified by the Central Government in the Official Gazette from time to time]

CHAPTER XVI

SPECIAL PROVISIONS APPLICABLE TO FIRMS

A.—Assessment of firms

182. Assessment of registered firms.—(1) Notwithstanding anything contained in sections 143 and 144 and subject to the provisions of sub-section (3), in the case of a registered firm, after assessing the total income of the firm,—

(*i*) the income-tax payable by the firm itself shall be determined; and

(*ii*) the share of each partner in the income of the firm shall be included in his total income and assessed to tax accordingly

(2) If such share of any partner is a loss it shall be set off against his other income or carried forward and set off in accordance with the provisions of sections 70 to 75.

(3) When any of the partners of a registered firm is a non-resident, the tax on his share in the income of the firm shall be assessed on the firm at the rate or rates which would be applicable if it were assessed on him personally, and the tax so assessed shall be paid by the firm

(4) A registered firm may retain out of the share of each partner in the income of the firm a sum not exceeding thirty per cent thereof until such time as the tax which may be levied on the partner in respect of that share is paid by him, and where the tax so levied cannot be recovered from the partner, whether wholly or in part, the firm shall be liable to pay the tax, to the extent of the amount retained or could have been so retained

183. Assessment of unregistered firms.—In the case of an unregistered firm, the Income-tax Officer—

(*a*) may determine the tax payable by the firm itself on the basis of the total income of the firm, or

[19][(*b*) if, in his opinion, the aggregate amount of the tax payable by the firm if it were assessed as a registered firm and the tax payable by the partners individually if the firm were so assessed would be greater than the aggregate amount of the tax payable by the firm under clause (*a*) and the tax which would be payable by the partners individually, may proceed

[18] Inserted by s 42, F Act, 1965, w e f 1-4-1965
[19] Substituted by s 32, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

to make the assessment under sub-section (1) of section 182 as if the firm were a registered firm; and, where the procedure specified in this clause is applied to any unregistered firm, the provisions of sub-sections (2), (3) and (4) of section 182 shall apply thereto as they apply in relation to a registered firm]

B.—Registration of firms

184. Application for registration.—(1) An application for registration of a firm for the purposes of this Act may be made to the Income-tax Officer on behalf of any firm if—

(*i*) the partnership is evidenced by an instrument, and

(*ii*) the individual shares of the partners are specified in that instrument

(2) Such application may, subject to the provisions of this section, be made either during the existence of the firm or after its dissolution

(3) The application shall be made to the Income-tax Officer having jurisdiction to assess the firm, and shall be signed—

(*a*) by all the partners (not being minors) personally, or

(*b*) in the case of a dissolved firm, by all persons (not being minors) who were partners in the firm immediately before its dissolution and by the legal representative of any such partner who is deceased

Explanation.—In the case of any partner who is absent from India or is a lunatic or an idiot, the application may be signed by any person duly authorised by him in this behalf, or, as the case may be, by a person entitled under law to represent him.

(4) The application shall be made before the end of the previous year for the assessment year in respect of which registration is sought

Provided that the Income-tax Officer may entertain an application made after the end of the previous year, if he is satisfied that the firm was prevented by sufficient cause from making the application before the end of the previous year.

(5) The application shall be accompanied by the original instrument evidencing the partnership, together with a copy thereof

Provided that if the Income-tax Officer is satisfied that for sufficient reason the original instrument cannot conveniently be produced, he may accept a copy of it certified in writing by all the partners (not being minors), or, where the application is made after the dissolution of the firm, by all the persons referred to in clause (*b*) of sub-section (3), to be a correct copy, or a certified copy of the instrument, and in such cases the application shall be accompanied by a duplicate copy of the original instrument

(6) The application shall be made in the prescribed form and shall contain the prescribed particulars Rr 22,23

(7) Where registration is granted to any firm for any assessment year, it shall have effect for every subsequent assessment year.

Provided that—

(*i*) there is no change in the constitution of the firm or the shares of the partners as evidenced by the instrument of partnership on the basis of which the registration was granted, and

R 24 [20][(ii) the firm furnishes, before the expiry of the time allowed under sub-section (1) or sub-section (2) of section 139 (whether fixed originally or on extension) for furnishing the return of income for such subsequent assessment year, a declaration to that effect, in the prescribed form and verified in the prescribed manner, so, however, that where the Income-tax Officer is satisfied that the firm was prevented by sufficient cause from furnishing the declaration within the time so allowed, he may allow the firm to furnish the declaration at any time before the assessment is made]

(8) Where any such change has taken place in the previous year, the firm shall apply for fresh registration for the assessment year concerned in accordance with the provisions of this section

185. Procedure on receipt of application.—(1) On receipt of an application for the registration of a firm, the Income-tax Officer shall inquire into the genuineness of the firm and its constitution as specified in the instrument of partnership, and—

(*a*) if he is satisfied that there is or was during the previous year in existence a genuine firm with the constitution so specified, he shall pass an order in writing registering the firm for the assessment year,

(*b*) if he is not so satisfied, he shall pass an order in writing refusing to register the firm

[21][*Explanation* —For the purposes of this section and section 186, a firm shall not be regarded as a genuine firm if any partner of the firm was, in relation to the whole or any part of his share in the income or property of the firm, at any time during the previous year, a *benamidar*—

(*a*) of any other partner to whom the first-mentioned partner does not stand in the relationship of a spouse or minor child, or

(*b*) of any person, not being a partner of the firm, and any of the other partners knew or had reason to believe that the first-mentioned partner was such *benamidar* and such knowledge or belief had not been communicated by such other partner to the Income-tax Officer in the prescribed manner]

[22][(2) Where the Income-tax Officer considers that the application for registration is not in order, he shall intimate the defect to the firm and give it an opportunity to rectify the defect in the application within a period of one month from the date of such intimation, and if the defect is not rectified within that period, the Income-tax Officer shall, by order in writing, reject the application

(3) Where the Income-tax Officer considers that the declaration furnished by a firm in pursuance of sub-section (7) of section 184 is not in order, he shall intimate the defect to the firm and give it an opportunity to rectify the defect in the declaration within a period of one month from the date of such intimation, and if the defect is not rectified within that period, the Income-tax Officer shall, by order in writing, declare that the registration granted to the firm shall not have effect for the relevant assessment year]

R 25 (4) Where a firm is registered for any assessment year, the Income-tax Officer shall record a certificate on the instrument of partnership or on the certified copy submitted in lieu of the original instrument, as the case may be, to the effect that the firm has been registered under this Act, for that assessment year, and where a declaration under sub-section (7) of section 184 is furnished by the firm, for the relevant subsequent assessment year

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[20] Substituted by s 33, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

[21] Inserted by s 34, *ibid*, w e f 1-4-1971, and substituted by s 51, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976

[22] Substituted by s 34, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

(5) Notwithstanding anything contained in this section, where, in respect of any assessment year, there is, on the part of a firm, any such failure as is mentioned in section 144, the Income-tax Officer may refuse to register the firm for the assessment year

186. Cancellation of registration.—(1) If, where a firm has been registered, or its registration has effect under sub-section (7) of section 184 for an assessment year, the Income-tax Officer is of opinion that there was during the previous year no genuine firm in existence as registered, he may, after giving the firm a reasonable opportunity of being heard and with the previous approval of the Inspecting Assistant Commissioner, cancel the registration of the firm for that assessment year.

Provided that no such cancellation shall be made after the expiry of eight years from the end of the assessment year in respect of which registration has been granted or has effect

(2) If, where a firm has been registered or its registration has effect under sub-section (7) of section 184 for any assessment year, there is, on the part of the firm, any such failure in respect of the assessment year as is mentioned in section 144, the Income-tax Officer may cancel the registration of the firm for the assessment year, after giving the firm not less than fourteen days' notice intimating his intention to cancel its registration and after giving it a reasonable opportunity of being heard

(3) Where the registration of a firm is cancelled for any assessment year, the Income-tax Officer shall amend the assessments of the firm and its partners for that assessment year on the footing that the firm is an unregistered firm

(4) The provisions of section 154 shall, so far as may be, apply to the amendments of the assessments of the firm and its partners under sub-section (3) of this section, the period of four years specified in sub-section (7) of that section being reckoned from the date of the order cancelling the registration

C—Changes in constitution, succession and dissolution

187. Change in constitution of a firm.—(1) Where at the time of making an assessment under section 143 or section 144 it is found that a change has occurred in the constitution of a firm, the assessment shall be made on the firm as constituted at the time of making the assessment

Provided that—

(*i*) the income of the previous year shall, for the purposes of inclusion in the total incomes of the partners, be apportioned between the partners who, in such previous year, were entitled to receive the same, and

(*ii*) when the tax assessed upon a partner cannot be recovered from him, it shall be recovered from the firm as constituted at the time of making the assessment

(2) For the purposes of this section, there is a change in the constitution of the firm—

(*a*) if one or more of the partners cease to be partners or one or more new partners are admitted, in such circumstances that one or more of the persons who were partners of the firm before the change continue as partner or partners after the change, or

(*b*) where all the partners continue with a change in their respective shares or in the shares of some of them

188. Succession of one firm by another firm.—Where a firm carrying on a business or profession is succeeded by another firm, and the case is not one covered by

section 187, separate assessments shall be made on the predecessor firm and the successor firm in accordance with the provisions of section 170.

189. Firm dissolved or business discontinued.—(1) Where any business or profession carried on by a firm has been discontinued or where a firm is dissolved, the Income-tax Officer shall make an assessment of the total income of the firm as if no such discontinuance or dissolution had taken place, and all the provisions of this Act, including the provisions relating to the levy of a penalty or any other sum chargeable under any provision of this Act, shall apply, so far as may be, to such assessment

(2) Without prejudice to the generality of the foregoing sub-section, if the Income-tax Officer or the Appellate Assistant Commissioner in the course of any proceeding under this Act in respect of any such firm as is referred to in that sub-section is satisfied that the firm was guilty of any of the acts specified in Chapter XXI he may impose or direct the imposition of a penalty in accordance with the provisions of that Chapter

(3) Every person who was at the time of such discontinuance or dissolution a partner of the firm, and the legal representative of any such person who is deceased, shall be jointly and severally liable for the amount of tax, penalty or other sum payable, and all the provisions of this Act, so far as may be, shall apply to any such assessment or imposition of penalty or other sum

[23][*Explanation* —The amount of tax referred to in this sub-section shall also include that part of the share of each partner in the income of the firm before its discontinuance or dissolution which the firm could have retained under sub-section (4) of section 182 but which has not been so retained]

(4) Where such discontinuance or dissolution takes place after any proceedings in respect of an assessment year have commenced, the proceedings may be continued against the persons referred to in sub-section (3) from the stage at which the proceedings stood at the time of such discontinuance or dissolution, and all the provisions of this Act shall, so far as may be, apply accordingly

(5) Nothing in this section shall affect the provisions of sub-section (6) of section 159

CHAPTER XVII

COLLECTION AND RECOVERY OF TAX

A —General

190. Deduction at source and advance payment.—(1) Notwithstanding that the regular assessment in respect of any income is to be made in a later assessment year, the tax on such income shall be payable by deduction at source or by advance payment, as the case may be, in accordance with the provisions of this Chapter.

(2) Nothing in this section shall prejudice the charge of tax on such income under the provisions of sub-section (1) of section 4

191. Direct payment.—[24]* * In the case of income in respect of which provision is not made under this Chapter for deducting income-tax at the time of payment, and

[23] Inserted by s 52, Taxation Laws (Amendment) Act, 1975, w e f 1-10-1975
[24] "(1)" omitted by s 43, F Act, 1965, w e f 1-4-1965

in any case where income-tax has not been deducted in accordance with the provisions of this Chapter, income-tax shall be payable by the assessee direct

[25]* * * * *

B —Deduction at source

192. Salary.—(1) Any person responsible for paying any income chargeable under the head "Salaries" shall, at the time of payment, deduct income-tax [1]* * on the amount payable at the average rate of income-tax [1]* * computed on the basis of the rates [2]* * in force for the financial year in which the payment is made, on the estimated income of the assessee under this head for that financial year Rr 32, 34

(2) [3]* * * * *

(3) The person responsible for making the payment referred to in sub-section (1) [4]* * may, at the time of making any deduction, increase or reduce the amount to be deducted under this section for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct during the financial year

(4) The trustees of a recognised provident fund, or any person authorised by the regulations of the fund to make payment of accumulated balances due to employees, shall, in cases where sub-rule (1) of rule 9 of Part A of the Fourth Schedule applies, at the time an accumulated balance due to an employee is paid, make therefrom the deduction provided in rule 10 of Part A of the Fourth Schedule

(5) Where any contribution made by an employer, including interest on such contributions, if any, in an approved superannuation fund is paid to the employee, [5][tax] on the amount so paid shall be deducted by the trustees of the fund to the extent provided in rule 6 of Part B of the Fourth Schedule R 33

(6) For the purposes of deduction of tax on salary payable in foreign currency, the value in rupees of such salary shall be calculated at the prescribed rate of exchange R 26

[6]* * * * *

193. Interest on securities.—The person responsible for paying any income chargeable under the head "Interest on securities" shall, at the time of payment, deduct income-tax [7]* * at the rates in force on the amount of the interest payable R 37

[8][Provided that no tax shall be deducted from—

(*i*) any interest payable on 4¼ per cent National Defence Bonds, 1972, where the bonds are held by an individual, not being a non-resident, or

[9][(*i-a*) any interest payable to an individual on 4¼ per cent National Defence Loan, 1968, or 4¾ per cent National Defence Loan, 1972, or]

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[25] Sub-s (2) omitted by s 43, F Act, 1965, w e f 1-4-1965
[1] "And super-tax" and "and average rate of super-tax respectively" omitted by s 44, *ibid*, w e f 1-4-1965
[2] "Of tax" omitted by s 13, F Act, 1968, w e f 1-4-1968
[3] Omitted by s 44, F Act, 1965, w e f 1-4-1965
[4] "Or sub-section (2)" omitted, *ibid*, w e f 1-4-1965
[5] Substituted for "income-tax and super-tax", *ibid*, w e f 1-4-1965
[6] The Explanation omitted, *ibid*, w e f 1-4-1965
[7] "And super-tax" omitted by s 45, *ibid*, w e f 1-4-1965
[8] Inserted by s 4, Taxation Laws (Amendment) Act, 1962, w e f 13-12-1962, and substituted by s 13, F (No 2) Act, 1965, w e f 11-9-1965
[9] Inserted by s 4, Taxation Laws (Amendment and Miscellaneous Provisions) Act, 1965, w e f 4-12-1965

(*ii*) any interest payable on National Savings Certificates (First Issue); or

[10][(*ii-a*) any interest payable on 7-Year National Savings Certificates (IV Issue); or

(*ii-b*) any interest payable on such debentures, issued by any co-operative society (including a co-operative land mortgage bank or a co-operative land development bank) or any other institution or authority, as the Central Government may, by notification in the Official Gazette, specify in this behalf, or]

(*iii*) any interest payable on $6\frac{1}{2}$ per cent. Gold Bonds, 1977, or 7 per cent. Gold Bonds, 1980, where the bonds are held by an individual not being a non-resident, and the holder thereof makes a declaration in writing before the person responsible for paying the interest that the total nominal value of the $6\frac{1}{2}$ per cent. Gold Bonds, 1977, or, as the case may be, the 7 per cent Gold Bonds, 1980, held by him (including such bonds, if any, held on his behalf by any other person) did not in either case exceed ten thousand rupees at any time during the period to which the interest relates,

[11][(*iv*) any interest payable on any other security of the Central or State Government, where the security is held by an individual, not being a non-resident, and the holder thereof makes a declaration in writing before the person responsible for paying the interest that—

(*a*) he has not previously been assessed under this Act or under the Indian Income-tax Act, 1922 (XI of 1922),

(*b*) his total income of the previous year in which the interest is due is not likely to exceed the maximum amount not chargeable to tax, and

(*c*) the total nominal value of the securities held by him (including such securities, if any, as are held on his behalf by any other person) did not exceed two thousand five hundred rupees at any time during the said previous year]]

[12]* * * * *

Rr ,37 **194. Dividends.**—The principal officer of an Indian company or a company which has made the prescribed arrangements for the declaration and payment of dividends (including dividends on preference shares) within India, shall, before making any payment in cash or before issuing any cheque or warrant in respect of any dividend or before making any distribution or payment to a shareholder of any dividend within the meaning of sub-clause (*a*) or sub-clause (*b*) or sub-clause (*c*) or sub-clause (*d*) or sub-clause (*e*) of clause (*22*) of section 2, deduct from the amount of such dividend, income-tax [13]* * at the rates in force

Rr ,29 Provided that where in the case of any shareholder, not being a company, the Income-tax Officer gives a certificate in writing in the prescribed manner that to the best of his belief the total income [14]* * of the shareholder will be less than the minimum liable to income-tax, the person responsible for paying any dividend to the shareholder shall so long as the certificate is in force pay the dividend without any deduction

R 37 [15][**194A. Interest other than "Interest on securities".**—(1) Any person, not being an individual or a Hindu undivided family, who is responsible for paying to a resident

[10] Inserted by s 22, F Act, 1970, w e f 1-4-1970
[11] Inserted by s 25, F Act, 1966, w e f 1-4-1966
[12] The Explanation inserted by s 45, F Act, 1965, w e f 1-4-1965, and omitted by s 30, F (No 2) Act, 1967, w e f 1-4-1967
[13] "And super-tax" omitted by s 46, F Act, 1965, w e f 1-4-1965
[14] "Or the total world income" omitted, *ibid*, w e f 1-4-1965
[15] Inserted by s 30, F (No 2) Act, 1967, w e f 1-4-1967

any income by way of interest other than income chargeable under the head "Interest on securities", shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rates in force

Provided that no such deduction shall be made in a case where the person (not being a company or a registered firm) entitled to receive such income furnishes to the person responsible for making the payment—

(*a*) an affidavit, or

(*b*) a statement in writing,

declaring that his estimated total income assessable for the assessment year next following the financial year in which the income is credited or paid will be less than the minimum liable to income-tax

(2) The statement in writing referred to in sub-section (1) shall also contain such R
other particulars as may be prescribed, be verified in the prescribed manner, [16][be 29A
signed in the presence of—

(*a*) a Member of Parliament or a State Legislature, or

(*b*) a member of a District Council or a Metropolitan Council, a Municipal Corporation or Municipal Committee, or

(*c*) a Gazetted Officer of the Central or a State Government, or

(*d*) an officer of any banking company (including a co-operative bank) of the rank of sub-agent, agent or manager,

and bear an attestation by such member or officer to the effect that the person who has signed the statement is known to him]

(3) The provisions of sub-section (1) shall not apply—

[17][(*i*) where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year by the person referred to in sub-section (1) to the account of, or to, the payee, does not exceed one thousand rupees,]

(*ii*) to such income credited or paid before the 1st day of October, 1967,

(*iii*) to such income credited or paid to—

(*a*) any banking company to which the Banking Regulation Act, 1949 (X of 1949), applies, or any co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank), or

(*b*) any financial corporation established by or under a Central, State or Provincial Act, or

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[16] Substituted for "be signed in the presence of a Gazetted Officer of the Central or a State Government and bear an attestation by such officer to the effect that the person who has signed the statement is known to him" by s 14, F Act, 1968, w e f 1-4-1968

[17] Substituted by s 20, F Act, 1975, w e f 1-4-1975

"Notwithstanding the substitution of clause (*i*) of sub-section (3) of section 194A of the Income-tax Act by sub-section (1) of this section, nothing in section 201 or section 276B of that Act shall apply to, or in relation to, any failure to deduct income-tax under sub-section (1) of the said section 194A on any income by way of interest other than income chargeable under the head 'Interest on securities' credited or paid on or after the 1st day of April, 1975, but before the 1st day of June, 1975, where the income so credited or paid at any one time does not exceed four hundred rupees"—
S 20(2), F Act, 1975

(c) the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956), or

(d) the Unit Trust of India established under the Unit Trust of India Act, 1963 (LII of 1963), or

(e) any company or co-operative society carrying on the business of insurance, or

(f) such other institution, association or body [18][or class of institutions, associations or bodies] which the Central Government may, for reasons to be recorded in writing, notify in this behalf in the Official Gazette,

[18][(iv) to such income credited or paid by a firm to a partner of the firm,

(v) to such income credited or paid by a co-operative society [19][to a member thereof or] to any other co-operative society,]

[20][(vi) to such income credited or paid in respect of deposits under any scheme framed by the Central Government and notified by it in this behalf in the Official Gazette,

(vii) to such income credited or paid in respect of deposits with a banking company to which the Banking Regulation Act, 1949 (X of 1949), applies (including any bank or banking institution referred to in section 51 of that Act), or with a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank),]

[21][(viii) to such income credited or paid by the Central Government under any provision of this Act or the Indian Income-tax Act, 1922 (XI of 1922), or the Estate Duty Act, 1953 (XXXIV of 1953), or the Wealth-tax Act, 1957 (XXVII of 1957), or the Gift-tax Act, 1958 (XVIII of 1958), or the Super Profits Tax Act, 1963 (XIV of 1963), or the Companies (Profits) Surtax Act, 1964 (VII of 1964), or the Interest-tax Act, 1974 (XLV of 1974)]

[21][(4) The person responsible for making the payment referred to in sub-section (1) may, at the time of making any deduction, increase or reduce the amount to be deducted under this section for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct during the financial year]

Explanation—In this section, "Gazetted Officer" includes a Tehsildar or a Mamlatdar of a Taluka or Tehsil or any other officer performing functions similar to those of a Tehsildar or Mamlatdar]

R 37 [22][**194B. Winnings from lottery or crossword puzzle.**—The person responsible for paying to any person any income by way of winnings from any lottery or crossword puzzle in an amount exceeding one thousand rupees shall, at the time of payment thereof, deduct income-tax thereon at the rates in force

Provided that no deduction shall be made under this section from any payment made before the 1st day of June, 1972.]

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[18] Inserted by s 14, F Act, 1968, w e f 1-4-1968
[19] Inserted by s 26, F (No 2) Act, 1971, w e f 1-4-1971
[20] Inserted by s 23, F Act, 1970, w e f 1-4-1970
[21] Inserted by s 20, F Act, 1975, w e f 1-4-1975
[22] Inserted by s 28, F Act, 1972, w e f 1-4-1972

[23][**194C. Payments to contractors and sub-contractors.**—(1) Any person responsible R
for paying any sum to any resident (hereafter in this section referred to as the 37
contractor) for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract between the contractor and—

(*a*) the Central Government or any State Government, or

(*b*) any local authority, or

(*c*) any corporation established by or under a Central, State or Provincial Act, or

(*d*) any company, [24][or]

[24][(*e*) any co-operative society,]

shall, at the time of credit of such sum to the account of the contractor or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to two per cent of such sum as income-tax on income comprised therein

(2) Any person (being a contractor and not being an individual or a Hindu undivided family) responsible for paying any sum to any resident (hereafter in this section referred to as the sub-contractor) in pursuance of a contract with the sub-contractor for carrying out, or for the supply of labour for carrying out, the whole or any part of the work undertaken by the contractor or for supplying whether wholly or partly any labour which the contractor has undertaken to supply shall, at the time of credit of such sum to the account of the sub-contractor or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to one per cent of such sum as income-tax on income comprised therein

(3) No deduction shall be made under sub-section (1) or sub-section (2) from—

(*i*) any sum credited or paid in pursuance of any contract the consideration for which does not exceed five thousand rupees, or

(*ii*) any sum credited or paid before the 1st day of June, 1972, [25][or]

[25][(*iii*) any sum credited or paid before the 1st day of June, 1973, in pursuance of a contract between the contractor and a co-operative society or in pursuance of a contract between such contractor and the sub-contractor in relation to any work (including supply of labour for carrying out any work) undertaken by the contractor for the co-operative society]

(4) Where the Income-tax Officer is satisfied that the total income of the R
contractor or the sub-contractor justifies the deduction of income-tax at any lower rate 28
or no deduction of income-tax, as the case may be, the Income-tax Officer shall, on an application made by the contractor or the sub-contractor in this behalf, give to him such certificate as may be appropriate

(5) Where any such certificate is given, the person responsible for paying the sum referred to in sub-section (1) or sub-section (2) shall, until such certificate is cancelled by the Income-tax Officer, deduct income-tax at the rates specified in such certificate or deduct no tax, as the case may be]

[1][**194D. Insurance commission.**—Any person responsible for paying to a resident R
any income by way of remuneration or reward, whether by way of commission or 37

[23] Inserted by s 28, F Act, 1972, w e f 1-4-1972
[24] Inserted by s 16, F Act, 1973, w e f 1-4-1973
[25] Inserted, *ibid*, w e f 1-4-1973
[1] Inserted by s 17, *ibid*, w e f 1-4-1973

otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance) shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rates in force

Provided that no deduction shall be made under this section from any such income credited or paid before the 1st day of June, 1973]

Rr 27, 37 **195. Other sums.**—(1) Any person responsible for paying to a non-resident, not being a company, or to a company which is neither an Indian company nor a company which has made the prescribed arrangements for the declaration and payment of dividends within India, any interest, not being "Interest on securities", or any other sum, not being dividends, chargeable under the provisions of this Act, shall, at the time of payment, unless he is himself liable to pay any income-tax [2]* * thereon as an agent, deduct income-tax [2]* * thereon at the rates in force

Provided that nothing in this sub-section shall apply to any payment made in the course of transactions in respect of which a person responsible for the payment is deemed under the proviso to sub-section (1) of section 163 not to be an agent of the payee

[3][Provided further that the deduction of income-tax from any sum, being income chargeable under the head "Capital gains" relating to capital assets other than short-term capital assets, paid to a company which is neither an Indian company nor a company which has made the prescribed arrangements for the declaration and payment of dividends within India, shall be of an amount equal to the amount of income-tax on such sum calculated in accordance with the provisions of clause (*i*) of section 115]

(2) Where the person responsible for paying any such sum chargeable under this Act (other than interest including interest on securities, dividend and salary) to a non-resident considers that the whole of such sum would not be income chargeable in the case of the recipient, he may make an application to the Income-tax Officer to determine, by general or special order, the appropriate proportion of such sum so chargeable, and upon such determination, tax shall be deducted under sub-section (1) only on that proportion of the sum which is so chargeable

[4][(3) Subject to rules made under sub-section (5), any person entitled to receive any interest or other sum on which income-tax has to be deducted under sub-section (1) may make an application in the prescribed form to the Income-tax Officer for the grant of a certificate authorising him to receive such interest or other sum without deduction of tax under that sub-section, and where any such certificate is granted, every person responsible for paying such interest or other sum to the person to whom such certificate is granted shall, so long as the certificate is in force, make payment of such interest or other sum without deducting tax thereon under sub-section (1)

(4) A certificate granted under sub-section (3) shall remain in force till the expiry of the period specified therein or, if it is cancelled by the Income-tax Officer before the expiry of such period, till such cancellation

R 29B (5) The Board may, having regard to the convenience of assessees and the interests of revenue, by notification in the Official Gazette, make rules specifying the cases in which, and the circumstances under which, an application may be made for the grant of a certificate under sub-section (3) and the conditions subject to which

[2] "And super-tax" omitted by s 47, F Act, 1965, w e f 1-4-1965
[3] Inserted by s 21, F Act, 1975, w e f 1-4-1975
[4] Inserted by s 24, F Act, 1970, w e f 1-4-1970

such certificate may be granted and providing for all other matters connected therewith]

[5][**196. Interest or dividend or other sums payable to Government, Reserve Bank or certain corporations.**—Notwithstanding anything contained in the foregoing provisions of this Chapter, no deduction of tax shall be made by any person from any sums payable to—

(*i*) the Government, or

(*ii*) the Reserve Bank of India, or

(*iii*) a corporation established by or under a Central Act which is, under any law for the time being in force, exempt from income-tax on its income,

where such sum is payable to it by way of interest or dividend in respect of any securities or shares owned by it or in which it has full beneficial interest, or any other income accruing or arising to it]

197. Certificate for deduction at lower rate.—(1) Where, in the case of any income of any person other than a company— Rr 28, 29

[6][(*a*) income-tax is required to be deducted at the time of credit or, as the case may be, at the time of payment at the rates in force under the provisions of sections 192, 193, 194A, [7][194B], [8][194D] and 195],

(*b*) being a non-resident, [9][income-tax] is required to be deducted at the time of payment at the rates in force under the provisions of section 194,

the Income-tax Officer is satisfied that the total income [10]* * of the recipient justifies the deduction of income-tax [11]* * at any lower rates or no deduction of income-tax [11]* *, as the case may be, the Income-tax Officer shall, on an application made by the assessee in this behalf, give to him such certificate as may be appropriate

(2) Where any such certificate is given, the person responsible for paying the income shall, until such certificate is cancelled by the Income-tax Officer, deduct income-tax [12]* * at the rates specified in such certificate or deduct no tax, as the case may be

[13][(3) Where the principal officer of a company considers that, by reason of the provisions of section 80K, the whole or any portion of the dividend referred to in section 194 will be deductible in computing the total income of the recipient, he may, before paying the dividend to the shareholder or issuing any cheque or warrant in respect thereof, make an application to the Income-tax Officer to determine the appropriate proportion of the dividend to be deducted under the provisions of section 80K, and on such determination by the Income-tax Officer no tax shall be deducted on such proportionate amount]

198. Tax deducted is income received.—All sums deducted in accordance with the provisions of [14][sections 192 to 194, section 194A, [15][section 194B, section 194C,] [16][section 194D] and section 195] shall, for the purpose of computing the income of an assessee, be deemed to be income received.

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[5] Substituted by s 30, F (No 2) Act, 1967, w e f 1-4-1967
[6] Substituted, *ibid*, w e f 1-4-1967
[7] Inserted by s 29, F Act, 1972, w e f 1-4-1972
[8] Inserted by s 18, F Act, 1973, w e f 1-4-1973
[9] Substituted for "super-tax" by s 48, F Act, 1965, w e f 1-4-1965
[10] "Or the total world income" omitted, *ibid*, w e f 1-4-1965
[11] "Or super-tax" omitted, *ibid*, w e f 1-4-1965
[12] "And super-tax" omitted, *ibid*, w e f 1-4-1965
[13] Substituted by s 33 and 3rd Sch, F (No 2) Act, 1967, w e f 1-4-1968
[14] Substituted for "sections 192 to 195" by s 30, *ibid*, w e f 1-4-1967
[15] Inserted by s 30, F Act, 1972, w e f 1-4-1972
[16] Inserted by s 19, F Act, 1973, w e f 1-4-1973

199. Credit for tax deducted.—Any deduction made in accordance with the provisions of [17][sections 192 to 194, section 194A, [18][section 194B, section 194C,] [19][section 194D] and section 195] and paid to the Central Government shall be treated as a payment of [20][tax] on behalf of the person from whose income the deduction was made, or of the owner of the security or of the shareholder, as the case may be, and credit shall be given to him for the amount so deducted on the production of the certificate furnished under section 203 in the assessment [21][(including a provisional assessment under section 141A)], if any, made for the immediately following assessment year under this Act

[22][Provided that—

(*i*) in a case where such person or owner or shareholder is a person whose income is included under the provisions of section 60, section 61, section 64, section 93 or section 94 in the total income of another person, the payment shall be deemed to have been made on behalf of, and the credit shall be given to, such other person,

R 30A (*ii*) in any other case, where the dividend on any share is assessable as the income of a person other than the shareholder, the payment shall be deemed to have been made on behalf of, and the credit shall be given to, such other person in such circumstances as may be prescribed

Provided further that where any security or share in a company is owned jointly by two or more persons not constituting a partnership, the payment shall be deemed to have been made on behalf of, and the credit shall be given to, each such person in the same proportion in which the interest on such security or dividend on such share is assessable as his income]

R 30 **200. Duty of person deducting tax.**—Any person deducting any sum in accordance with the provisions of [17][sections 192 to 194, section 194A, [18][section 194B, section 194C,] [19][section 194D] and section 195] shall pay within the prescribed time, the sum so deducted to the credit of the Central Government or as the Board directs

201 Consequences of failure to deduct or pay.—(1) If any such person and in the cases referred to in section 194, the principal officer and the company of which he is the principal officer does not deduct or after deducting fails to pay the tax as required by or under this Act, he or it shall, without prejudice to any other consequences which he or it may incur, be deemed to be an assessee in default in respect of the tax

Provided that no penalty shall be charged under section 221 from such person, principal officer or company unless the Income-tax Officer is satisfied that such person or principal officer or company, as the case may be, has [23][without good and sufficient reasons] failed to deduct and pay the tax

R 119A [24][(1A) Without prejudice to the provisions of sub-section (1), if any such person, principal officer or company as is referred to in that sub-section does not deduct or after deducting fails to pay the tax as required by or under this Act, he or it shall be liable to pay simple interest at [25][twelve] per cent per annum on the amount of such

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[17] Substituted for "sections 192 to 195" by s 30, F (No 2) Act, 1967, w e f 1-4-1967
[18] Inserted by s 30, F Act, 1972, w e f 1-4-1972
[19] Inserted by s 19, F Act, 1973, w e f 1-4-1973
[20] Substituted for "income-tax or super-tax, as the case may be," by s 49, F Act, 1965, w e f 1-4-1965
[21] Inserted by s 15, F Act, 1968, w e f 1-4-1968
[22] Retrospectively substituted, *ibid*
[23] Substituted for "wilfully" by s 26, F Act, 1966, w e f 1-4-1966
[24] Inserted, *ibid*, w e f 1-4-1966
[25] "Nine" substituted for "six" by s 4, Taxation Laws (Amendment) Act, 1967, w e f 1-10-1967, and "twelve" for "nine" by s 25, F Act, 1972, w e f 1-4-1972 See p 314, f n 20

tax from the date on which such tax was deductible to the date on which such tax is actually paid]

(2) Where the tax has not been paid as aforesaid after it is deducted, [1][the amount of the tax together with the amount of simple interest thereon referred to in sub-section (1A)] shall be a charge upon all the assets of the person, or the company, as the case may be, referred to in sub-section (1)

202. Deduction only one mode of recovery.—The power to levy tax by deduction under [2][sections 192 to 194, section 194A, [3][section 194B, section 194C,] [4][section 194D] and section 195] shall be without prejudice to any other mode of recovery

[5][**203. Certificate for tax deducted.**—Every person deducting tax in accordance with the provisions of sections 192 to 194, section 194A, [6][section 194B, section 194C,] [7][section 194D] and section 195 shall, at the time of credit or payment of the sum, or, as the case may be, at the time of issue of a cheque or warrant for payment of any dividend to a shareholder, furnish to the person to whose account such credit is given or to whom such payment is made or the cheque or warrant is issued, a certificate to the effect that tax has been deducted, and specifying the amount so deducted, the rate at which the tax has been deducted and such other particulars as may be prescribed.] R 31

204. Meaning of "person responsible for paying".—For the purposes of [8][sections 192 to 194, section 194A, [9][section 194B, section 194C,] [10][section 194D,] sections 195 to 203] and section 285, the expression "person responsible for paying" means—

(*i*) in the case of payments of income chargeable under the head "Salaries", other than payments by the Central Government or the Government of a State, the employer himself or, if the employer is a company, the company itself, including the principal officer thereof,

(*ii*) in the case of payments of income chargeable under the head "Interest on securities", other than payments made by or on behalf of the Central Government or the Government of a State, the local authority, corporation or company, including the principal officer thereof,

(*iii*) [11][in the case of credit, or, as the case may be, payment] of any other sum chargeable under the provisions of this Act, the payer himself, or, if the payer is a company, the company itself including the principal officer thereof

205. Bar against direct demand on assessee.—Where tax is deductible at the source under [12][sections 192 to 194, section 194A, [13][section 194B, section 194C,] [14][section 194D] and section 195] the assessee shall not be called upon to pay the tax himself to the extent to which tax has been deducted from that income

206. Person paying salary to furnish prescribed return.—(1) The prescribed person in the case of every office of the Government, the principal officer in the case of every Rr 35, 36

[1] Substituted for "it" by s 26, F Act, 1966, w e f 1-4-1966
[2] Substituted for "sections 192 to 195" by s 30, F (No 2) Act, 1967, w e f 1-4-1967
[3] Inserted by s 30, F Act, 1972, w e f 1-4-1972
[4] Inserted by s 19, F Act, 1973, w e f 1-4-1973
[5] Substituted by s 30, F (No 2) Act, 1967, w e f 1-4-1967
[6] Inserted by s 30, F Act, 1972, w e f 1-4-1972
[7] Inserted by s 19, F Act, 1973, w e f 1-4-1973
[8] Substituted for "sections 192 to 203" by s 30, F (No 2) Act, 1967, w e f 1-4-1967
[9] Inserted by s 31, F Act, 1972, w e f 1-4-1972
[10] Inserted by s 19, F Act, 1973, w e f 1-4-1973
[11] Substituted for "in the case of payments" by s 30, F (No 2) Act, 1967, w e f 1-4-1967
[12] Substituted for "sections 192 to 195", *ibid*, w e f 1-4-1967
[13] Inserted by s 32, F Act, 1972, w e f 1-4-1972
[14] Inserted by s 19, F Act, 1973, w e f 1-4-1973

company, the prescribed person in the case of every local authority or other public body or association, and every private employer shall prepare, and within thirty days from the 31st day of March in each year, deliver or cause to be delivered to the Income-tax Officer in the prescribed form and verified in the prescribed manner, a return in writing showing—

(a) the name and, so far as it is known, the address of every person who was receiving on the 31st day of March, or has received or to whom was due during the year ending on that date, from the Government, company, authority, body, association or private employer, as the case may be, any income chargeable under the head "Salaries" of such amount as may be prescribed,

(b) the amount of the income so received by or so due to each such person, and the time or times at which the same was paid or due, as the case may be,

(c) the amount deducted in respect of income-tax [15]* * from the income of each such person

(2) Where an employer deducts from the emoluments paid to an employee or pays on his behalf any contributions of that employee to an approved superannuation fund, he shall include all such deductions or payments in the return which he is required to furnish under this section

R 37A [16][**206A. Person paying interest to residents without deduction of tax, to furnish prescribed return.**—Any person responsible for paying any income referred to in section 194A shall prepare, and within thirty days from the 31st day of March in each year, deliver or cause to be delivered to the Income-tax Officer in the prescribed form and verified in the prescribed manner a return in writing showing—

(a) the name and address of every person who has furnished to him an affidavit or a statement under the proviso to sub-section (1) of section 194A,

(b) the amount of the income credited or paid during the financial year to each such person and the time or times at which the same was credited or paid, as the case may be, and

(c) such other particulars as may be prescribed]

C —Advance payment of tax

207. Advance tax and income subject to advance tax.—(1) Tax shall be payable in advance in accordance with the provisions of sections 208 to 219 in the case of income [17][other than—

(a) income chargeable under the head "Capital gains", and

(b) income referred to in sub-clause (*ix*) of clause (*24*) of section 2]

(2) Such income is hereinafter in this Chapter referred to as "income subject to advance tax", and such tax is hereinafter in this Chapter referred to as "advance tax"

[18][**208 Condition of liability to pay advance tax.**—(1) Advance tax shall be payable during the financial year—

[15] "And super-tax" omitted by s 51, F Act, 1965, w e f 1-4-1965
[16] Inserted by s 30, F (No 2) Act, 1967, w e f 1-4-1967
[17] Substituted for "other than income chargeable under the head 'Capital gains' " by s 33, F Act, 1972, w e f 1-4-1972
[18] Substituted by s 12, F Act, 1969, w e f 1-4-1969

(*a*) where the total income, exclusive of capital gains [19][and income referred to in sub-clause (*ix*) of clause (*24*) of section 2], of the assessee, referred to in sub-clause (*i*) of clause (*a*) of section 209, exceeds the amount specified in sub-section (2), or

(*b*) where it is payable by virtue of the provisions of sub-section (3) of section 212

(2) The amount referred to in clause (*a*) of sub-section (1) shall be—

(*a*) in the case of a company or a local authority Rs 2,500,

(*b*) in the case of a registered firm Rs 30,000,

(*c*) in the case of a person other than a company, a local authority or a registered firm,—

(*i*) where such person was not resident in India during the previous year referred to in sub-clause (*i*) of clause (*a*) of section 209 or such person being a person referred to in sub-section (3) of section 212 is not likely to be resident in India during the previous year relevant to the assessment year next following the financial year in which the advance tax is payable Rs 5,000,

(*ii*) in any other case Rs 10,000]

209. Computation of advance tax.—[20][(1)] The amount of advance tax payable by an assessee in the financial year shall, [20][subject to the provisions of sub-sections (2) and (3),] be computed as follows —

(*a*) (*i*) his total income of the latest previous year in respect of which he has been assessed by way of regular assessment shall first be ascertained,

(*ii*) the amount of capital gains [21][and income referred to in sub-clause (*ix*) of clause (*24*) of section 2], if any, included in such total income shall be deducted therefrom, and on the balance income-tax [22]* * shall be calculated at the rates in force in the financial year,

(*iii*) the income-tax [22]* * so calculated shall be reduced by the amount of income-tax [22]* * which would be deductible during the said financial year in accordance with the provisions of [23][sections 192 to 194, section 194A, [24][section 194C,] [25][section 194D] and section 195] [1][on any income (as computed before allowing any deductions admissible under this Act) on which tax is required to be deducted under the said sections and which has been taken into account in computing the said total income],

(*iv*) the net amount of income-tax [2]* * calculated in accordance with sub-clause (*iii*) shall, subject to the provisions of [3][clauses [3]* (*c*) and (*d*)], be the advance tax payable,

(*b*) [4]* * * * *

[19] Inserted by s 34, F Act, 1972, w e f 1-4-1972
[20] Inserted by s 11, F Act, 1974, w e f 1-4-1974
[21] Inserted by s 35, F Act, 1972, w e f 1-4-1972
[22] "And super-tax" omitted by s 52, F Act, 1965, w e f 1-4-1965
[23] Substituted for "sections 192 to 195" by s 31, F (No 2) Act, 1967, w e f 1-4-1967
[24] Inserted by s 35, F Act, 1972, w e f 1-4-1972
[25] Inserted by s 19, F Act, 1973, w e f 1-4-1973
[1] Substituted for "on any income, included in the said total income" by s 13, F Act, 1969, w e f 1-4-1969
[2] "And super-tax" omitted by s 52, F Act, 1965, w e f 1-4-1965
[3] "Clauses (*b*), (*c*) and (*d*)" substituted for "clauses (*b*) and (*c*)" by s 37, F Act, 1964, w e f 1-4-1963, and "(*b*)" omitted by s 52, F Act, 1965, w e f 1-4-1965
[4] Omitted by s 52, F Act, 1965, w e f 1-4-1965

(c) in cases where an estimate is sent by the assessee under sub-section (1) or sub-section (2) or sub-section (3) [5][or sub-section (3A)] of section 212, the total income so estimated shall, for the purposes of calculation of tax under this section, be substituted for the total income referred to in clause (a);

[6][(d) in cases where—

(i) the total income of the latest previous year (being a year later than the previous year referred to in clause (a)) on the basis of which tax has been paid by the assessee under section 140A exceeds the total income referred to in clause (a), or

(ii) the Income-tax Officer makes an amended order referred to in sub-section (3) of section 210 on the basis of the total income on which tax has been paid by the assessee under section 140A,

the total income referred to in clause (a) shall be substituted,—

(1) in a case falling under sub-clause (i), by the total income on the basis of which tax has been paid under section 140A, and

(2) in a case falling under sub-clause (ii), by the total income on the basis of which the amended order under sub-section (3) of section 210 is made.]

Explanation —If the assessee is a partner of a registered firm and an assessment of the firm has been completed for a previous year later than the latest previous year for which the assessee's assessment has been completed, his share in the income of the firm shall, for the purposes of [7][clause (a)], be included in his total income on the basis of the said assessment of the firm

[8][(2) Where the Finance Act of the relevant year provides that, in the case of any class of assessees, net agricultural income (as defined in that Act) shall be taken into account for the purposes of computing advance tax, then, the net agricultural income to be taken into account in the case of any assessee falling in that class, shall be—

(a) in cases where the Income-tax Officer makes an order under sub-section (1) or sub-section (3) of section 210,—

(i) if the total income of the latest previous year in respect of which the assessee has been assessed by way of regular assessment forms the basis of computation of advance tax payable by him, the net agricultural income which has been taken into account for the purposes of charging income-tax for the assessment year relevant to that previous year, or

(ii) if the total income of the previous year on the basis of which tax has been paid by the assessee under section 140A forms the basis of computation of advance tax, the net agricultural income as returned by the assessee in the return of income for the assessment year relevant to that previous year,

(b) in cases where an estimate is sent by the assessee under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (3A) of section 212, the net agricultural income, as estimated by him, of the period which would be the previous year for the immediately following assessment year.

[5] Inserted by s 13, F Act, 1969, w e f 1-4-1969
[6] Inserted by s 11, F Act, 1963, w e f 1-4-1963, substituted by s 8, Direct Taxes (Amendment) Act, 1964, w e f 6-10-1964, and further substituted by s 35, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971
[7] Substituted for "clauses (a) and (b)" by s 52, F Act, 1965, w e f 1-4-1965
[8] Inserted by s 11, F Act, 1974, w e f 1-4-1974

(3) Where the Finance Act of the relevant year specifies any separate rate or rates for the purposes of computing advance tax in the case of every Hindu undivided family which has at least one member whose total income of the previous year exceeds the maximum amount not chargeable to income-tax in his case, then, the Income-tax Officer shall, for making an order under section 210 in the case of any such Hindu undivided family, compute (subject to the provisions of section 164) the advance tax at such rate or rates—

(*a*) in a case where the total income of the latest previous year in respect of which the Hindu undivided family has been assessed by way of regular assessment forms the basis of computation of advance tax, if the total income of any member of the family for the assessment year relevant to such latest previous year exceeds the maximum amount not chargeable to income-tax in his case,

(*b*) in a case where the total income of the previous year on the basis of which tax has been paid by the Hindu undivided family under section 140A forms the basis of computation of advance tax, if the total income of any member of the family for the assessment year relevant to such previous year exceeds the maximum amount not chargeable to income-tax in his case]

210. Order by Income-tax Officer.—(1) Where a person has been previously assessed by way of regular assessment under this Act or under the Indian Income-tax Act, 1922 (XI of 1922), the Income-tax Officer may, on or after the 1st day of April in the financial year, by order in writing, require him to pay to the credit of the Central Government advance tax determined in accordance with the provisions of sections 207, 208 and 209

(2) The notice of demand issued under section 156 in pursuance of such order shall specify the instalments in which the advance tax is payable under section 211. R 38

[9][(3) If, after the making of an order by the Income-tax Officer under this section and at any time before the date which is fifteen days prior to the date on which the last instalment of advance tax is payable by the assessee under sub-section (1) of section 211, tax is paid by the assessee under section 140A or a regular assessment of the assessee (or of the registered firm of which he is a partner) is made in respect of a previous year later than that referred to in the order of the Income-tax Officer, the Income-tax Officer may make an amended order requiring the assessee to pay in one instalment on the specified date or in equal instalments on the specified dates, if more than one, falling after the date of the amended order, the advance tax computed on the basis of the total income on which tax has been paid under section 140A or in respect of which the regular assessment aforesaid has been made as reduced by the amount, if any, paid in accordance with the original order]

211. Instalments of advance tax.—[10][(1) Subject to the provisions of this section and of section 212, advance tax shall be payable in three equal instalments on the following dates during the financial year, namely —

(*i*) the 15th day of June, the 15th day of September and the 15th day of December, in the case of an assessee whose total income to the extent of seventy-five per cent thereof or more is derived from a source or sources for which the previous year (relevant to the assessment year next following the financial year aforesaid) ends on or before the 31st day of December,

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[9] Substituted by s 12, F Act, 1963, w e f 1-4-1963, and further substituted by s 36, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

[10] Substituted by s 15, F Act, 1969, w e f 1-4-1969

(*ii*) the 15th day of September, the 15th day of December and the 15th day of March, in any other case

Provided that in respect of any class of assessees referred to in clause (*i*), the Board may, having regard to the nature of dealings in the business carried on by such assessees, the method of accounting followed by them and other relevant factors, authorise, by notification in the Official Gazette and subject to such conditions as may be specified therein, the payment of the last instalment of the advance tax on the 15th day of March during the financial year, instead of on the 15th day of December

Explanation—In this sub-section, "total income" means,—

(*a*) in a case where advance tax is paid by the assessee in accordance with an order of the Income-tax Officer under section 210, the total income with reference to which the advance tax payable has been calculated in such order,

(*b*) in a case where the advance tax is paid in accordance with an estimate made by the assessee under section 212, the total income with reference to which the advance tax is so estimated,

as reduced, in either case, [11][by the amount of capital gains and income referred to in sub-clause (*ix*) of clause (*24*) of section 2], if any, included therein]

(2) If the notice of demand issued under section 156 in pursuance of the order under section 210 is served after any of the dates on which the instalments specified therein are payable, the advance tax shall be payable in equal instalments on each of such of those dates as fall after the date of the service of the notice of demand, or in one sum on the [12][15th] day of March if the notice is served after the [12][15th] day of December

R 39 **212. Estimate by assessee.**—[13][(1) If any assessee who is required to pay advance tax by an order under section 210 estimates at any time before the last instalment of advance tax is due in his case that, by reason of his total income (exclusive of capital gains [14][and income referred to in sub-clause (*ix*) of clause (*24*) of section 2], if any) of the period which would be the previous year for the immediately following assessment year (such total income being, hereafter in this section, referred to as current income) being likely to be less than the income on which the advance tax payable by him under section 210 has been computed or for any other reason, the advance tax payable by him would be less than the amount which he is so required to pay, he may, at his option, send to the Income-tax Officer an estimate of—

(*i*) the current income, and

(*ii*) the advance tax payable by him on the current income calculated in the manner laid down in section 209,

and shall pay such amount of advance tax as accords with his estimate in equal instalments on such of the dates applicable in his case under section 211 as have not expired, or in one sum if only the last of such dates has not expired.]

(2) The assessee may send a revised estimate of the advance tax payable by him before any one of the dates specified in section 211 and adjust any excess or deficiency in respect of any instalment already paid in a subsequent instalment or in subsequent instalments

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11 Substituted for "by the capital gains" by s 36, F Act, 1972, w e f 1-4-1972
12 Substituted for "1st" by s 15, F Act, 1969, w e f 1-4-1969
13 Substituted by s 16, *ibid*, w e f 1-4-1969
14 Inserted by s 37, F Act, 1972, w e f 1-4-1972

[15][(3) Any person who has not previously been assessed by way of regular assessment under this Act or under the Indian Income-tax Act, 1922 (XI of 1922), shall, in each financial year, before the date on which the last instalment of advance tax is due in his case under sub-section (1) of section 211, if his current income is likely to exceed the amount specified in sub-section (2) of section 208, send to the Income-tax Officer an estimate of—

(*i*) the current income, and

(*ii*) the advance tax payable by him on the current income calculated in the manner laid down in section 209,

and shall pay such amount of advance tax as accords with his estimate on such of the dates applicable in his case under section 211 as have not expired, by instalments which may be revised according to sub-section (2)

(3A) In the case of any assessee who is required to pay advance tax by an order under section 210, if, by reason of the current income being likely to be greater than the income on which the advance tax payable by him under section 210 has been computed or for any other reason, the amount of advance tax computed in the manner laid down in section 209 on the current income (which shall be estimated by the assessee) exceeds the amount of advance tax demanded from him under section 210 by more than 33⅓ per cent of the latter amount, he shall, at any time before the date on which the last instalment of advance tax is due from him, send to the Income-tax Officer an estimate of—

(*i*) the current income, and

(*ii*) the advance tax payable by him on the current income calculated in the manner laid down in section 209,

and shall pay such amount of advance tax as accords with his estimate on such of the dates applicable in his case under section 211 as have not expired, by instalments which may be revised according to sub-section (2)

[16][Provided that in a case where the Commissioner is satisfied that, having regard to the nature of the business carried on by the assessee and the date of expiry of the previous year in respect of such business, it will be difficult for the assessee to furnish the estimate required to be furnished by him in accordance with the provisions of this sub-section before the date on which the last instalment of advance tax is due in his case, he may, if the assessee pays the advance tax demanded from him under section 210 before such date, extend the date for furnishing such estimate up to a period of thirty days immediately following the last date of the previous year in respect of that business, and where the date is so extended, the assessee shall pay, on or before the date as so extended, the amount by which the amount of advance tax already paid by him falls short of the advance tax payable in accordance with his estimate.]]

(4) Every estimate under this section shall be sent in the prescribed form and verified in the prescribed manner

213. Commission receipts.—Where part of the income subject to advance tax consists of any income of the nature of commission which is receivable periodically and is not received or adjusted by the payer in the assessee's account before any of the [17]* instalments of advance tax become due, he may defer payment of advance tax on that part of his income to the date on which such income would be normally

15 Substituted for sub-s (3) by s 16, F Act, 1969, w e f 1-4-1969
16 Inserted by s 25, F Act, 1970, w e f, 1-4-1970
17 "Quarterly" omitted by s 17, F Act, 1969, w e f 1-4-1969

received or adjusted, and, if he does so, he shall communicate to the Income-tax Officer the date to which such payment is deferred

R Provided that, if the advance tax of which the payment is deferred is not paid
119A within fifteen days of the date on which such income or part thereof is received or adjusted by the payer in the assessee's account, the advance tax shall be payable with [18][twelve] per cent. simple interest per annum from the date of such receipt or adjustment to the date of payment of the advance tax

R **214. Interest payable by Government.**—(1) The Central Government shall pay
119A simple interest at [18][twelve] per cent per annum on the amount by which the aggregate sum of any instalments of advance tax paid during any financial year in which they are payable under sections 207 to 213 exceeds the amount of the tax determined on regular assessment, from the 1st day of April next following the said financial year to the date of the regular assessment for the assessment year immediately following the said financial year, and where any such instalment is paid after the expiry of the financial year during which it is payable by reason of the provisions of section 213, interest as aforesaid shall also be payable on that instalment from the date of its payment to the date of regular assessment.

[19][Provided that in respect of any amount refunded on a provisional assessment under section 141A, no interest shall be paid for any period after the date of such provisional assessment]

[19][(1A) Where on completion of the regular assessment the amount on which interest was paid under sub-section (1) has been reduced, the interest shall be reduced accordingly and the excess, if any, paid shall be deemed to be tax payable by the assessee and the provisions of this Act shall apply accordingly]

(2) On any portion of such amount which is refunded under this Chapter, interest shall be payable only up to the date on which the refund was made

R **215. Interest payable by assessee.**—[20][(1) Where, in any financial year, an assessee
119A has paid advance tax under section 212 on the basis of his own estimate, and the advance tax so paid is less than seventy-five per cent. of the assessed tax, simple interest at the rate of [21][twelve] per cent per annum from the 1st day of April next following the said financial year up to the date of the regular assessment shall be payable by the assessee upon the amount by which the advance tax so paid falls short of the assessed tax]

[22][(2) Where before the date of completion of a regular assessment, tax is paid by the assessee under section 140A or otherwise,—

(*i*) interest shall be calculated in accordance with the foregoing provision up to the date on which the tax is so paid, and

(*ii*) thereafter, interest shall be calculated at the rate aforesaid on the amount by which the tax as so paid (in so far as it relates to income subject to advance tax) falls short of the assessed tax.]

(3) Where as a result of an order under section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 264, the amount on which

[18] "Six" substituted for "four" by s 53, F Act, 1965, w e f 1-4-1965, "nine" for "six" by s 4, Taxation Laws (Amendment) Act, 1967, w e f 1-10-1967, and "twelve" for "nine" by s 25, F. Act, 1972, w e f 1-4-1972 See p 314, f n 20
[19] Inserted by s 16, F Act, 1968, w e f 1-4-1968
[20] Substituted by s 18, F Act, 1969, w e f 1-4-1970
[21] Substituted for "nine" by s 25, F Act, 1972, w e f 1-4-1972 See p 314, f n. 20
[22] Substituted by s 13, F Act, 1963, w e f 1-4-1963, and further substituted by s 37, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

interest was payable under this section has been reduced, the interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded.

(4) In such cases and under such circumstances as may be prescribed, the Income- R
tax Officer may reduce or waive the interest payable by the assessee under this 40
section

[23][(5) In this section and sections 217 and 273, "assessed tax" means the tax determined on the basis of the regular assessment (reduced by the amount of tax deductible in accordance with the provisions of sections 192 to 194, section 194A, [24][section 194C,] [25][section 194D] and section 195) so far as such tax relates to income subject to advance tax and so far as it is not due to variations in the rates of tax made by the Finance Act enacted for the year for which the regular assessment is made]

216. Interest payable by assessee in case of under-estimate, etc.—Where, on R
making the regular assessment, the Income-tax Officer finds that any assessee has— 119A

[1][(*a*) under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (3A) of section 212 under-estimated the advance tax payable by him and thereby reduced the amount payable in either of the first two instalments, or]

(*b*) under section 213 wrongly deferred the payment of advance tax on a part of his income,

he may direct that the assessee shall pay simple interest at [2][twelve] per cent per annum—

(*i*) in the case referred to in clause (*a*), for the period during which the payment was deficient, on the difference between the amount paid in each such instalment and the amount which should have been paid, having regard to the aggregate advance tax actually paid during the year, and

(*ii*) in the case referred to in clause (*b*), for the period during which the payment of advance tax was so deferred.

Explanation —For the purposes of this section, any instalment due before the expiry of six months from the commencement of the previous year in respect of which it is to be paid shall be deemed to have become due fifteen days after the expiry of the said six months

217. Interest payable by assessee when no estimate made.—[3][(1) Where, on R
making the regular assessment, the Income-tax Officer finds that any such person 119A
as is referred to in sub-section (3) of section 212 has not sent the estimate referred to therein, simple interest at the rate of [4][twelve] per cent per annum from the 1st day of April next following the financial year in which the advance tax was payable in accordance with the said sub-section up to the date of the regular assessment shall be payable by the assessee upon the amount equal to the assessed tax as defined in sub-section (5) of section 215

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[23] Inserted by s 18, F Act, 1969, w e f 1-4-1970
[24] Inserted by s 38, F Act, 1972, w e f 1-4-1972
[25] Inserted by s 19, F Act, 1973, w e f 1-4-1973
[1] Substituted by s 19, F Act, 1969, w e f 1-4-1970
[2] "Six" substituted for "four" by s 53, F Act, 1965, w e f 1-4-1965, "nine" for "six" by s 4, Taxation Laws (Amendment) Act, 1967, w e f 1-10-1967, and "twelve" for "nine" by s 25, F Act, 1972, w e f 1-4-1972 See p 314, f n 20
[3] Substituted for sub-s (1) by s 20, F Act, 1969, w e f 1-4-1970
[4] Substituted for "nine" by s 25, F Act, 1972, w e f 1-4-1972 See p 314, f n 20

(1A) Where, on making the regular assessment, the Income-tax Officer finds that any such person as is referred to in sub-section (3A) of section 212 has not sent the estimate referred to therein, simple interest at the rate of [5][twelve] per cent. per annum from the 1st day of April next following the financial year in which the advance tax was payable in accordance with the said sub-section up to the date of the regular assessment shall be payable by the assessee upon the amount by which the advance tax paid by him falls short of the assessed tax as defined in sub-section (5) of section 215]

R 40 (2) The provisions of sub-sections (2), (3) and (4) of section 215 shall apply to interest payable under this section as they apply to interest payable under that section.

218. When assessee deemed to be in default.—(1) If any assessee does not pay on the specified date any instalment of advance tax that he is required to pay under section 210 and does not, before the date on which any such instalment as is not paid becomes due, send under sub-section (1) or sub-section (2) of section 212 an estimate or a revised estimate of the advance tax payable by him, he shall be deemed to be an assessee in default in respect of such instalment or instalments

(2) If any assessee has sent under sub-section (1) or sub-section (2) or sub-section (3) [6][or sub-section (3A)] of section 212 an estimate or a revised estimate of the advance tax payable by him, but does not pay any instalment in accordance therewith on the date or dates specified in section 211, he shall be deemed to be an assessee in default in respect of such instalment or instalments

Provided that the assessee shall not, under sub-section (1) or this sub-section, be deemed to be in default in respect of any amount of which the payment is deferred under section 213 until after the date communicated by him to the Income-tax Officer under that section

219. Credit for advance tax.—Any sum, other than a penalty or interest, paid by or recovered from an assessee as advance tax in pursuance of this Chapter shall be treated as a payment of tax in respect of the income of the period which would be the previous year for an assessment for the assessment year next following the financial year in which it was payable, and credit therefor shall be given to the assessee in the regular assessment

[7][Provided that where, before the completion of the regular assessment, a provisional assessment is made under section 141A, the credit shall be given also in such provisional assessment]

D —Collection and recovery

220. When tax payable and when assessee deemed in default.—(1) Any amount, otherwise than by way of advance tax, specified as payable in a notice of demand under section 156 shall be paid within thirty-five days of the service of the notice at the place and to the person mentioned in the notice

Provided that, where the Income-tax Officer has any reason to believe that it will be detrimental to revenue if the full period of thirty-five days aforesaid is allowed, he may, with the previous approval of the Inspecting Assistant Commissioner, direct that the sum specified in the notice of demand shall be paid within such period being a period less than the period of thirty-five days aforesaid, as may be specified by him in the notice of demand

[5] Substituted for "nine" by s 25, F Act, 1972, w e f 1-4-1972 See p 314, f n 20
[6] Inserted by s 21, F Act, 1969, w e f 1-4-1969
[7] Inserted by s 17, F Act, 1968, w e f 1-4-1968

(2) If the amount specified in any notice of demand under section 156 is not paid within the period limited under sub-section (1), the assessee shall be liable to pay simple interest at [8][twelve] per cent per annum from the day commencing after the end of the period mentioned in sub-section (1) Rr 118, 119, 119A

[9][Provided that, where as a result of an order under section 154, or section 155, or section 250, or section 254, or section 260, or section 262, or section 264, the amount on which interest was payable under this section had been reduced, the interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded]

(3) Without prejudice to the provisions contained in sub-section (2), on an application made by the assessee before the expiry of the due date under sub-section (1), the Income-tax Officer may extend the time for payment or allow payment by instalments, subject to such conditions as he may think fit to impose in the circumstances of the case

(4) If the amount is not paid within the time limited under sub-section (1) or extended under sub-section (3), as the case may be, at the place and to the person mentioned in the said notice the assessee shall be deemed to be in default

(5) If, in a case where payment by instalments is allowed under sub-section (3), the assessee commits default in paying any one of the instalments within the time fixed under that sub-section, the assessee shall be deemed to be in default as to the whole of the amount then outstanding, and the other instalment or instalments shall be deemed to have been due on the same date as the instalment actually in default

(6) Where an assessee has presented an appeal under section 246 the Income-tax Officer may, in his discretion, and subject to such conditions as he may think fit to impose in the circumstances of the case, treat the assessee as not being in default in respect of the amount in dispute in the appeal, even though the time for payment has expired, as long as such appeal remains undisposed of

(7) Where an assessee has been assessed in respect of income arising outside India in a country the laws of which prohibit or restrict the remittance of money to India, the Income-tax Officer shall not treat the assessee as in default in respect of that part of the tax which is due in respect of that amount of his income which, by reason of such prohibition or restriction, cannot be brought into India, and shall continue to treat the assessee as not in default in respect of such part of the tax until the prohibition or restriction is removed

Explanation.—For the purposes of this section, income shall be deemed to have been brought into India if it has been utilised or could have been utilised for the purposes of any expenditure actually incurred by the assessee outside India or if the income, whether capitalised or not, has been brought into India in any form

221. Penalty payable when tax in default.—[10][(1) When an assessee is in default or is deemed to be in default in making a payment of tax, he shall, in addition to the amount of the arrears and the amount of interest payable under sub-section (2) of section 220, be liable, by way of penalty, to pay such amount as the Income-tax Officer may direct, and in the case of a continuing default, such further amount or amounts as the Income-tax Officer may, from time to time, direct, so, however, that the total amount of penalty does not exceed the amount of tax in arrears

Provided that before levying any such penalty, the assessee shall be given a reasonable opportunity of being heard

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[8] "Six" substituted for "four" by s 53, F Act, 1965, w e f 1-4-1965, "nine" for "six" by s 4, Taxation Laws (Amendment) Act, 1967, w e f 1-10-1967, and "twelve" for "nine" by s 25, F Act, 1972, w e f 1-4-1972 See p 314, f n 20

[9] Retrospectively inserted by s 14, F Act, 1963

[10] Substituted by s 38, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

Provided further that where the Income-tax Officer is satisfied that the default was for good and sufficient reasons, no penalty shall be levied under this section]

[11][*Explanation* —For the removal of doubt, it is hereby declared that an assessee shall not cease to be liable to any penalty under this sub-section merely by reason of the fact that before the levy of such penalty he has paid the tax]

(2) Where as a result of any final order the amount of tax, with respect to the default in the payment of which the penalty was levied, has been wholly reduced, the penalty levied shall be cancelled and the amount of penalty paid shall be refunded

R **222. Certificate to Tax Recovery Officer.**—(1) When an assessee is in default or
119 is deemed to be in default in making a payment of tax, the Income-tax Officer may forward to the Tax Recovery Officer a certificate under his signature specifying the amount of arrears due from the assessee, and the Tax Recovery Officer on receipt of such certificate, shall proceed to recover from such assessee the amount specified therein by one or more of the modes mentioned below, in accordance with the rules laid down in the Second Schedule—

(*a*) attachment and sale of the assessee's movable property,

(*b*) attachment and sale of the assessee's immovable property,

(*c*) arrest of the assessee and his detention in prison,

(*d*) appointing a receiver for the management of the assessee's movable and immovable properties

[12][*Explanation* —For the purposes of this sub-section, the assessee's movable or immovable property shall include any property which has been transferred, directly or indirectly on or after the 1st day of June, 1973, by the assessee to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid, and so far as the movable or immovable property so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to be included in the assessee's movable or immovable property for recovering any arrears due from the assessee in respect of any period prior to such date]

(2) The Income-tax Officer may issue a certificate under sub-section (1), notwithstanding that proceedings for recovery of the arrears by any other mode have been taken

223. Tax Recovery Officer to whom certificate is to be issued.—(1) The Income-tax Officer may forward the certificate referred to in section 222 to—

(*a*) the Tax Recovery Officer within whose jurisdiction the assessee carries on his business or profession or within whose jurisdiction the principal place of his business or profession is situate, or

(*b*) the Tax Recovery Officer within whose jurisdiction the assessee resides or any movable or immovable property of the assessee is situate

[13][(2) Where an assessee has property within the jurisdiction of more than one Tax Recovery Officer and the Tax Recovery Officer to whom a certificate is sent by an Income-tax Officer—

(*a*) is not able to recover the entire amount by the sale of the property, movable or immovable, within his jurisdiction, or

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[11] Inserted by s 53, Taxation Laws (Amendment) Act, 1975, w e f 1-10-1975
[12] Inserted by s 54, *ibid*, w e f 1-10-1975
[13] Substituted by s 55, *ibid*, w e f 1-10-1975

(b) is of the opinion that, for the purpose of expediting or securing the recovery of the whole or any part of the amount under this Chapter, it is necessary so to do,

he may send the certificate or, where only a part of the amount is to be recovered, a copy of the certificate certified in the prescribed manner and specifying the amount to be recovered to a Tax Recovery Officer within whose jurisdiction the assessee resides or has property, and thereupon that Tax Recovery Officer shall also proceed to recover the amount under this Chapter as if the certificate or the copy thereof had been the certificate sent to him by the Income-tax Officer]

224. Validity of certificate, and amendment thereof.—(1) When the Income-tax Officer sends a certificate to a Tax Recovery Officer under section 222, it shall not be open to the assessee to dispute before the Tax Recovery Officer the correctness of the assessment, and no objection to the certificate on any ground shall be entertained by the Tax Recovery Officer

(2) Notwithstanding the issue of a certificate to a Tax Recovery Officer, the Income-tax Officer shall have power to withdraw or correct any clerical or arithmetical mistake in the certificate by sending an intimation to the Tax Recovery Officer

(3) The Income-tax Officer shall intimate to the Tax Recovery Officer any orders withdrawing or cancelling a certificate or any correction made by him under sub-section (2) of this section or any amendment made under sub-section (4) of section 225

225. Stay of proceedings under certificate and amendment or withdrawal thereof.—(1) Notwithstanding that a certificate has been issued to the Tax Recovery Officer for the recovery of any tax, the Income-tax Officer may grant time for the payment of the tax, and thereupon the Tax Recovery Officer shall stay the proceedings until the expiry of the time so granted

(2) Where a certificate for the recovery of tax has been issued, the Income-tax Officer shall keep the Tax Recovery Officer informed of any tax paid or time granted for payment, subsequent to the issue of such certificate

(3) Where the order giving rise to a demand of tax for which a certificate for recovery has been issued has been modified in appeal or other proceeding under this Act, and, as a consequence thereof, the demand is reduced but the order is the subject-matter of further proceeding under this Act, the Income-tax Officer shall stay the recovery of such part of the amount of the certificate as pertains to the said reduction for the period for which the appeal or other proceeding remains pending

(4) Where a certificate for the recovery of tax has been issued and subsequently the amount of the outstanding demand is reduced as a result of an appeal or other proceeding under this Act, the Income-tax Officer shall, when the order which was the subject-matter of such appeal or other proceeding has become final and conclusive, amend the certificate or withdraw it, as the case may be

226. Other modes of recovery.—(1) Notwithstanding the issue of a certificate to the Tax Recovery Officer under section 222, the Income-tax Officer may recover the tax by any one or more of the modes provided in this section

(2) If any assessee is in receipt of any income chargeable under the head "Salaries", the Income-tax Officer may require any person paying the same to deduct from any payment subsequent to the date of such requisition any arrears of tax due from such assessee, and such person shall comply with any such requisition and shall pay the sum so deducted to the credit of the Central Government or as the Board directs

Provided that any part of the salary exempt from attachment in execution of a decree of a civil court under section 60 of the Code of Civil Procedure, 1908 (V of 1908), shall be exempt from any requisition made under this sub-section

(3)(*i*) The Income-tax Officer may, at any time or from time to time, by notice in writing require any person from whom money is due or may become due to the assessee or any person who holds or may subsequently hold money for or on account of the assessee, to pay to the Income-tax Officer either forthwith upon the money becoming due or being held or at or within the time specified in the notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the amount due by the assessee in respect of arrears or the whole of the money when it is equal to or less than that amount

(*ii*) A notice under this sub-section may be issued to any person who holds or may subsequently hold any money for or on account of the assessee jointly with any other person and for the purposes of this sub-section, the shares of the joint-holders in such account shall be presumed, until the contrary is proved, to be equal.

(*iii*) A copy of the notice shall be forwarded to the assessee at his last address known to the Income-tax Officer, and in the case of a joint account to all the joint-holders at their last addresses known to the Income-tax Officer

(*iv*) Save as otherwise provided in this sub-section, every person to whom a notice is issued under this sub-section shall be bound to comply with such notice, and, in particular, where any such notice is issued to a post office, banking company or an insurer, it shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary

(*v*) Any claim respecting any property in relation to which a notice under this sub-section has been issued arising after the date of the notice shall be void as against any demand contained in the notice

(*vi*) Where a person to whom a notice under this sub-section is sent objects to it by a statement on oath that the sum demanded or any part thereof is not due to the assessee or that he does not hold any money for or on account of the assessee, then nothing contained in this sub-section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, but if it is discovered that such statement was false in any material particular, such person shall be personally liable to the Income-tax Officer to the extent of his own liability to the assessee on the date of the notice, or to the extent of the assessee's liability for any sum due under this Act, whichever is less

(*vii*) The Income-tax Officer may, at any time or from time to time, amend or revoke any notice issued under this sub-section or extend the time for making any payment in pursuance of such notice

(*viii*) The Income-tax Officer shall grant a receipt for any amount paid in compliance with a notice issued under this sub-section, and the person so paying shall be fully discharged from his liability to the assessee to the extent of the amount so paid

(*ix*) Any person discharging any liability to the assessee after receipt of a notice under this sub-section shall be personally liable to the Income-tax Officer to the extent of his own liability to the assessee so discharged or to the extent of the assessee's liability for any sum due under this Act, whichever is less

(*x*) If the person to whom a notice under this sub-section is sent fails to make payment in pursuance thereof to the Income-tax Officer, he shall be deemed to be an assessee in default in respect of the amount specified in the notice and further

proceedings may be taken against him for the realisation of the amount as if it were an arrear of tax due from him, in the manner provided in sections 222 to 225 and the notice shall have the same effect as an attachment of a debt by the Tax Recovery Officer in exercise of his powers under section 222

(4) The Income-tax Officer may apply to the court in whose custody there is money belonging to the assessee for payment to him of the entire amount of such money, or, if it is more than the tax due, an amount sufficient to discharge the tax

[14][(5) The Income-tax Officer may, if so authorised by the Commissioner by general or special order, recover any arrears of tax due from an assessee by distraint and sale of his movable property in the manner laid down in the Third Schedule]

227. Recovery through State Government.—If the recovery of tax in any area has been entrusted to a State Government under clause (1) of article 258 of the Constitution, the State Government may direct, with respect to that area or any part thereof, that tax shall be recovered therein with, and as an addition to, any municipal tax or local rate, by the same person and in the same manner as the municipal tax or local rate is recovered

228. Recovery of Indian tax in Pakistan and Pakistan tax in India.—(1) The Income-tax Officer may forward a certificate under section 222 to a Collector in Pakistan through the Central Board of Revenue of Pakistan, if the assessee has property in the district of that Collector, and for the purposes of that section, the expression "Tax Recovery Officer" shall include a Collector in Pakistan

(2) Where a Collector in India receives through the Board a certificate under the signature of an Income-tax Officer in Pakistan, the Collector shall proceed to recover the amount specified therein in the manner in which he would proceed to recover the amount specified in a certificate received from an Income-tax Officer in India, and shall remit any sum so recovered by him to the Income-tax Officer in Pakistan, after deducting his expenses in connection with the recovery proceedings

(3) The provisions of this section shall remain in force only so long as there are in force similar provisions in the law of Pakistan for the recovery of tax by a Collector in Pakistan on receipt of a certificate from an Income-tax Officer in India

[15][**228A. Recovery of tax in pursuance of agreements with foreign countries.**—(1) Where an agreement is entered into by the Central Government with the Government of any country outside India for recovery of income-tax under this Act and the corresponding law in force in that country and the Government of that country or any authority under that Government which is specified in this behalf in such agreement sends to the Board a certificate for the recovery of any tax due under such corresponding law from a person having any property in India, the Board may forward such certificate to any Tax Recovery Officer within whose jurisdiction such property is situated and thereupon such Tax Recovery Officer shall—

(*a*) proceed to recover the amount specified in the certificate in the manner in which he would proceed to recover the amount specified in a certificate received from an Income-tax Officer, and

(*b*) remit any sum so recovered by him to the Board after deducting his expenses in connection with the recovery proceedings

(2) Notwithstanding the issue of a certificate under section 222 to the Tax Recovery Officer, where an assessee is in default or is deemed to be in default in making a payment of tax, the Income-tax Officer may, if the assessee has property in a country outside India (being a country with which the Central Government has entered into

[14] Substituted by s 54, F Act, 1965, w e f 1-4-1965
[15] Inserted by s 39, F Act, 1972, w e f 1-4-1972

an agreement for the recovery of income-tax under this Act and the corresponding law in force in that country), forward to the Board a certificate specifying the amount of arrears due from the assessee and the Board may take such action thereon as it may deem appropriate having regard to the terms of the agreement with such country]

229. Recovery of penalties, fine, interest and other sums.—Any sum imposed by way of interest, fine, penalty, or any other sum payable under the provisions of this Act, shall be recoverable in the manner provided in this Chapter for the recovery of arrears of tax

Rr 42-44 **230. Tax clearance certificates.**—(1) Subject to such exceptions as the Central Government may, by notification in the Official Gazette, specify in this behalf, no person who is not domiciled in India, or who, even if domiciled in India at the time of his departure, has, in the opinion of an Income-tax authority, no intention of returning to India, shall leave the territory of India by land, sea or air unless he first obtains from such authority as may be appointed by the Central Government in this behalf (hereinafter in this section referred to as the "competent authority") a certificate stating that he has no liabilities under this Act, the Excess Profits Tax Act, 1940 (XV of 1940), the Business Profits Tax Act, 1947 (XXI of 1947), the Indian Income-tax Act, 1922 (XI of 1922), the Wealth-tax Act, 1957 (XXVII of 1957), the Expenditure-tax Act, 1957 (XXIX of 1957), or the Gift-tax Act, 1958 (XVIII of 1958), or that satisfactory arrangements have been made for the payment of all or any of such taxes which are or may become payable by that person

Provided that in the case of a person not domiciled in India the competent authority may, if it is satisfied that such person intends to return to India, issue an exemption certificate either in respect of a single journey or in respect of all journeys to be undertaken by that person within such period as may be specified in the certificate

(2) If the owner or charterer of any ship or aircraft carrying persons from any place in the territory of India to any place outside India allows any person to whom sub-section (1) applies to travel by such ship or aircraft without first satisfying himself that such person is in possession of a certificate as required by that sub-section, he shall be personally liable to pay the whole or any part of the amount of tax, if any, payable by such person as the Income-tax Officer may, having regard to the circumstances of the case, determine

(3) In respect of any sum payable by the owner or charterer of any ship or aircraft under sub-section (2), the owner or charterer, as the case may be, shall be deemed to be an assessee in default for such sum, and such sum shall be recoverable from him in the manner provided in this Chapter as if it were an arrear of tax

(4) The Board may make rules for regulating any matter necessary for, or incidental to, the purpose of carrying out the provisions of this section

Explanation—For the purposes of this section, the expressions "owner" and "charterer" include any representative, agent or employee empowered by the owner or charterer to allow persons to travel by the ship or aircraft

[16][**230A. Restrictions on registration of transfers of immovable property in certain cases.**—(1) Notwithstanding anything contained in any other law for the time being in force, where any document required to be registered under the provisions of clause (*a*) to clause (*e*) of sub-section (1) of section 17 of the Indian Registration Act, 1908 (XVI of 1908), purports to transfer, assign, limit or extinguish the right, title or interest of any person to or in any property [17]* * valued at more than fifty thousand

[16] Inserted by s 10, Direct Taxes (Amendment) Act, 1964, w. e f 6-10-1964
[17] "(Other than agricultural land)" omitted by s 27, F (No 2) Act, 1971, w e f 1-10-1971

rupees, no registering officer appointed under that Act shall register any such document, unless the Income-tax Officer certifies that—

(a) such person has either paid or made satisfactory provision for payment of all existing liabilities under this Act, the Excess Profits Tax Act, 1940 (XV of 1940), the Business Profits Tax Act, 1947 (XXI of 1947), the Indian Income-tax Act, 1922 (XI of 1922), the Wealth-tax Act, 1957 (XXVII of 1957), the Expenditure-tax Act, 1957 (XXIX of 1957), [18][the Gift-tax Act, 1958 (XVIII of 1958), the Super Profits Tax Act, 1963 (XIV of 1963), and the Companies (Profits) Surtax Act, 1964 (VII of 1964)], or

(b) the registration of the document will not prejudicially affect the recovery of any existing liability under any of the aforesaid Acts

(2) The application for the certificate required under sub-section (1) shall be made by the person referred to in that sub-section and shall be in such form and shall contain such particulars as may be prescribed Rr 44A, 44B

[19][(3) The provisions of sub-section (1) shall not apply in a case where the person referred to in that sub-section is any such institution, association or body, or belongs to any such class of institutions, associations or bodies, as the Board may, for reasons to be recorded in writing, notify in this behalf in the Official Gazette]]

231. Period for commencing recovery proceedings.—Save in accordance with the provisions of section 173 or sub-section (7) of section 220, no proceedings for the recovery of any sum payable under this Act shall be commenced after the expiration of one year from the last day of the financial year in which the demand is made, or, in the case of a person who is deemed to be an assessee in default under any provision of this Act, after the expiration of one year from the last day of the financial year in which the assessee is deemed to be in default

Explanation 1 —The period of one year referred to above shall be reckoned—

(i) where an assessee has been treated as not being in default under sub-section (6) of section 220, as long as his appeal is undisposed of, from the last day of the financial year in which the appeal is disposed of,

(ii) where recovery proceedings in any case have been stayed by any order of a court, from the last day of the financial year in which the order is withdrawn,

(iii) where the date of payment of tax has been extended by an Income-tax authority to another date, from the last day of the financial year in which such other date falls,

(iv) where the sum payable is allowed to be paid by instalments, from the last day of the financial year in which the last of such instalments is due

Explanation 2 —A proceeding for the recovery of any sum shall be deemed to have commenced within the meaning of this section, if some action is taken to recover the whole or any part of the sum within the period hereinbefore referred to

232. Recovery by suit or under other law not affected.—The several modes of recovery specified in this Chapter shall not affect in any way—

(a) any other law for the time being in force relating to the recovery of debts due to Government, or

[18] Substituted for "and the Gift-tax Act, 1958 (XVIII of 1958)" by s 27, F (No 2) Act, 1971, w e f 1-10-1971
[19] Inserted, *ibid*, w e f 1-10-1971

(*b*) the right of the Government to institute a suit for the recovery of the arrears due from the assessee,

and it shall be lawful for the Income-tax Officer or the Government, as the case may be, to have recourse to any such law or suit, notwithstanding that the tax due is being recovered from the assessee by any mode specified in this Chapter

E.—Tax payable under provisional assessment

233.—*Omitted by s. 39 of the Taxation Laws (Amendment) Act, 1970, with effect from 1st April 1971*

234. **Tax paid by deduction or advance payment.**—Tax paid or deemed to have been paid under the provisions of Chapter XVII-B or Chapter XVII-C in respect of any income provisionally assessed under [20][[20]* * section 141A] shall be deemed to have been paid towards the provisional assessment

CHAPTER XVIII

RELIEF RESPECTING TAX ON DIVIDENDS IN CERTAIN CASES

235.—*Omitted by s 28 of the Finance (No 2) Act, 1971, with effect from 1st April 1972*

R 236 **Relief to company in respect of dividend paid out of past taxed profits.**—
27 (1) Where in respect of any previous year relevant to the assessment year commencing after the 31st day of March, 1960, an Indian company or a company which has made the prescribed arrangements for the declaration and payment of dividends within India, pays any dividend wholly or partly out of its profits and gains actually charged to income-tax for any assessment year ending before the 1st day of April, 1960, and deducts tax therefrom in accordance with the provisions of Chapter XVII-B, credit shall be given to the company against the income-tax, if any, payable by it on the profits and gains of the previous year during which the dividend is paid, of a sum calculated in accordance with the provisions of sub-section (2), and, where the amount of credit so calculated exceeds the income-tax payable by the company as aforesaid, the excess shall be refunded

(2) The amount of income-tax to be given as credit under sub-section (1) shall be a sum equal to ten per cent of so much of the dividends referred to in sub-section (1) as are paid out of the profits and gains actually charged to income-tax for any assessment year ending before the 1st day of April, 1960

Explanation 1.—For the purposes of this section, the aggregate of the dividends declared by a company in respect of any previous year shall be deemed first to have come out of the distributable income of that previous year and the balance, if any, out of the undistributed part of the distributable income of one or more previous years immediately preceding that previous year as would be just sufficient to cover the amount of such balance and as has not likewise been taken into account for covering such balance of any other previous year

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[20] "Section 141 or section 141A" substituted for "section 141" w e f 1-4-1968, and "section 141 or" omitted w e f 1-4-1971, by s 40, Taxation Laws (Amendment) Act, 1970

Explanation 2—The expression "distributable income of any previous year" shall mean the total income [21][(as computed before making any deduction under Chapter VI-A)] assessed for that year as reduced by—

(*i*) the amount of tax payable by the company in respect of [22][its] total income,

(*ii*) the amount of any other tax levied under any law for the time being in force on the company by the Government or by a local authority in excess of the amount, if any, which has been allowed in computing the total income,

[23][(*iii*) any sum with reference to which a deduction is allowable to the company under the provisions of section 80G, and]

(*iv*) in the case of a banking company, the amount actually transferred to a reserve fund under section 17 of the Banking Companies Act, 1949 (X of 1949),

and as *increased by*—

(*a*) any profits and gains or receipts of the company, not included in its total income [21][(as computed before making any deduction under Chapter VI-A)], and

(*b*) any amount attributable to any allowance made in computing the profits and gains of the company for purposes of assessment, which the company has not taken into account in its profit and loss account.

[24][**236A. Relief to certain charitable institutions or funds in respect of certain dividends.**—(1) In the case of an institution or fund referred to in clause (*iii*) of sub-section (2) of section 104, credit shall be given to the institution or fund against the tax, if any, payable by it, of a sum calculated in accordance with the provisions of sub-section (2), in respect of its income from dividends (other than dividends on preference shares) declared or distributed during the previous year relevant to any assessment year beginning on or after the 1st day of April, [25][1966], by such a company as is referred to in the said clause, and where the amount of credit so calculated exceeds the tax, if any, payable by the said institution or fund, the excess shall be refunded.

[1][(2) The amount to be given as credit under sub-section (1) shall be a sum which bears to the amount of the tax payable by the company under the provisions of the annual Finance Act with reference to the relevant amount of distributions of dividends by it the same proportion as the amount of the dividends (other than dividends on preference shares) received by the institution or fund from the company bears to the total amount of dividends (other than dividends on preference shares) declared or distributed by the company during the previous year

Explanation—In sub-section (2) of this section and in section 280ZB, the expression "the relevant amount of distributions of dividends" has the meaning assigned to it in the Finance Act of the relevant year]]

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21 Inserted by s 33 and 3rd Sch , F (No 2) Act, 1967, w e f 1-4-1968
22 Substituted for "the said", *ibid*, w e f 1-4-1968.
23 Substituted, *ibid*, w e f 1-4-1968
24 Inserted by s 11, Direct Taxes (Amendment) Act, 1964, w e f 1-4-1964
25 Substituted for "1964" by s 28, F Act, 1966, w e f 1-4-1966
1 Substituted, *ibid*, w e f 1-4-1966

CHAPTER XIX

REFUNDS

237. Refunds.—If any person satisfies the Income-tax Officer that the amount of tax paid by him or on his behalf or treated as paid by him or on his behalf for any assessment year exceeds the amount with which he is properly chargeable under this Act for that year, he shall be entitled to a refund of the excess.

238. Person entitled to claim refund in certain special cases.—(1) Where the income of one person is included under any provision of this Act in the total income of any other person, the latter alone shall be entitled to a refund under this Chapter in respect of such income

(2) Where through death, incapacity, insolvency, liquidation or other cause, a person is unable to claim or receive any refund due to him, his legal representative or the trustee or guardian or receiver, as the case may be, shall be entitled to claim or receive such refund for the benefit of such person or his estate

R 41 **239. Form of claim for refund and limitation.**—(1) Every claim for refund under this Chapter shall be made in the prescribed form and verified in the prescribed manner

[2][(2) No such claim shall be allowed, unless it is made within the period specified hereunder, namely —

(*a*) where the claim is in respect of income which is assessable for any assessment year commencing on or before the 1st day of April, 1967, four years from the last day of such assessment year,

(*b*) where the claim is in respect of income which is assessable for the assessment year commencing on the 1st day of April, 1968, three years from the last day of the assessment year,

(*c*) where the claim is in respect of income which is assessable for any other assessment year, two years from the last day of such assessment year]

240. Refund on appeal, etc.—Where, as a result of any order passed in appeal or other proceeding under this Act, refund of any amount becomes due to the assessee, the Income-tax Officer shall, except as otherwise provided in this Act, refund the amount to the assessee without his having to make any claim in that behalf

241. Power to withhold refund in certain cases.—Where an order giving rise to a refund is the subject-matter of an appeal or further proceeding or where any other proceeding under this Act is pending, and the Income-tax Officer is of the opinion that the grant of the refund is likely to adversely affect the revenue, the Income-tax Officer may, with the previous approval of the Commissioner, withhold the refund till such time as the Commissioner may determine

242. Correctness of assessment not to be questioned.—In a claim under this Chapter, it shall not be open to the assessee to question the correctness of any assessment or other matter decided which has become final and conclusive or ask for a review of the same, and the assessee shall not be entitled to any relief on such claim except refund of tax wrongly paid or paid in excess

R 119A **243. Interest on delayed refunds.**—[3][(1) If the Income-tax Officer does not grant the refund,—

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[2] Substituted by s 18, F Act, 1968, w e f 1-4-1968
[3] Substituted by s 42, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

(*a*) in any case where the total income of the assessee does not consist solely of income from interest on securities or dividends, within three months from the end of the month in which the total income is determined under this Act, and

(*b*) in any other case, within three months from the end of the month in which the claim for refund is made under this Chapter,

the Central Government shall pay the assessee simple interest at [4][twelve] per cent per annum on the amount directed to be refunded from the date immediately following the expiry of the period of three months aforesaid to the date of the order granting the refund

Explanation—If the delay in granting the refund within the period of three months aforesaid is attributable to the assessee, whether wholly or in part, the period of the delay attributable to him shall be excluded from the period for which interest is payable]

(2) Where any question arises as to the period to be excluded for the purposes of calculation of interest under the provisions of this section, such question shall be determined by the Commissioner whose decision shall be final

244. Interest on refund where no claim is needed.—(1) Where a refund is due to the assessee in pursuance of an order referred to in section 240 and the Income-tax Officer does not grant the refund within a period of [5][three months from the end of the month in which such order is passed], the Central Government shall pay to the assessee simple interest at [6][twelve] per cent per annum on the amount of refund due from the date immediately following the expiry of the period of [7][three] months aforesaid to the date on which the refund is granted R 119A

[8][(1A) Where the whole or any part of the refund referred to in sub-section (1) is due to the assessee, as a result of any amount having been paid by him after the 31st day of March, 1975, in pursuance of any order of assessment or penalty and such amount or any part thereof having been found in appeal or other proceeding under this Act to be in excess of the amount which such assessee is liable to pay as tax or penalty, as the case may be, under this Act, the Central Government shall pay to such assessee simple interest at the rate specified in sub-section (1) on the amount so found to be in excess from the date on which such amount was paid to the date on which the refund is granted

Provided that where the amount so found to be in excess was paid in instalments, such interest shall be payable on the amount of each such instalment or any part of such instalment, which was in excess, from the date on which such instalment was paid to the date on which the refund is granted

Provided further that no interest under this sub-section shall be payable for a period of one month from the date of the passing of the order in appeal or other proceeding

Provided also that where any interest is payable to an assessee under this sub-section, no interest under sub-section (1) shall be payable to him in respect of the amount so found to be in excess]

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[4] Substituted for "nine" by s 25, F Act, 1972, w e f 1-4-1972 See p 314, f n 20

[5] Substituted for "six months from the date of such order" by s 43, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

[6] "Six" substituted for "four" by s 53, F Act, 1965, w e f 1-4-1965, "nine" for "six" by s 4, Taxation Laws (Amendment) Act, 1967, w e f 1-10-1967, and "twelve" for "nine" by s 25, F Act, 1972, w e f 1-4-1972 See p 314, f n 20

[7] Substituted for "six" by s 43, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

[8] Inserted by s 56, Taxation Laws (Amendment) Act, 1975, w e f 1-10-1975

(2) Where a refund is withheld under the provisions of section 241, the Central Government shall pay interest at the aforesaid rate on the amount of refund ultimately determined to be due as a result of the appeal or further proceeding for the period commencing after the expiry of [9][three months from the end of the month in which the order referred to in section 241 is passed] to the date the refund is granted

245. Set off of refunds against tax remaining payable.—Where under any of the provisions of this Act, a refund is found to be due to any person, the Income-tax Officer, Appellate Assistant Commissioner or Commissioner, as the case may be, may, in lieu of payment of the refund, set off the amount to be refunded or any part of that amount, against the sum, if any, remaining payable under this Act by the person to whom the refund is due, after giving an intimation in writing to such person of the action proposed to be taken under this section

[10][CHAPTER XIX-A

SETTLEMENT OF CASES

245A. Definitions.—In this Chapter, unless the context otherwise requires,—

(*a*) "case" means any proceeding under the Indian Income-tax Act, 1922 (XI of 1922), or under this Act for or in connection with the assessment or reassessment of any person in respect of any year or years which may be pending before an Income-tax authority on the date on which an application under sub-section (1) of section 245C is made,

(*b*) "Income-tax authority" means a Director of Inspection, a Commissioner, an Appellate Assistant Commissioner, an Inspecting Assistant Commissioner or an Income-tax Officer

245B. Income-tax Settlement Commission.—(1) The Central Government shall constitute a Commission to be called the Income-tax Settlement Commission (hereafter in this Chapter referred to as "the Settlement Commission") for the settlement of cases under this Chapter

(2) The Settlement Commission shall consist of a Chairman and two other members and shall function within the Department of the Central Government dealing with direct taxes

(3) The Chairman and other members of the Settlement Commission shall be appointed by the Central Government from amongst persons of integrity and outstanding ability, having special knowledge of, and experience in, problems relating to direct taxes and business accounts

Provided that, where a member of the Board is appointed as the Chairman or as a member of the Settlement Commission, he shall cease to be a member of the Board

Provided further that, until the members are appointed under this sub-section, it shall be competent for the Central Government to require, from time to time, any two members of the Board to serve as members of the Settlement Commission for such period as the Central Government thinks fit, in addition to their duties as members of the Board

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[9] Substituted for "six months from the date of the order referred to in section 241" by s 43, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

[10] Inserted by s 57, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976

245C. Application for settlement of cases.—(1) An assessee may, at any stage of a case relating to him, make an application in such form and in such manner and containing such particulars as may be prescribed to the Settlement Commission to have the case settled and any such application shall be disposed of in the manner hereinafter provided.

(2) Every application made under sub-section (1) shall be accompanied by such fees as may be prescribed

(3) An application made under sub-section (1) shall not be allowed to be withdrawn by the applicant

245D. Procedure on receipt of an application under section 245C.—(1) On receipt of an application under section 245C, the Settlement Commission shall call for a report from the Commissioner and on the basis of the materials contained in such report and having regard to the nature and circumstances of the case or the complexity of the investigation involved therein, the Settlement Commission may, by order, allow the application to be proceeded with or reject the application

Provided that an application shall not be rejected under this sub-section unless an opportunity has been given to the applicant of being heard

Provided further that an application shall not be proceeded with under this sub-section if the Commissioner objects to the application being proceeded with on the ground that concealment of particulars of income on the part of the applicant or perpetration of fraud by him for evading any tax or other sum chargeable or imposable under the Indian Income-tax Act, 1922 (XI of 1922), or under this Act, has been established or is likely to be established by any Income-tax authority, in relation to the case

(2) A copy of every order under sub-section (1) shall be sent to the applicant and to the Commissioner

(3) Where an application is allowed to be proceeded with under sub-section (1), the Settlement Commission may call for the relevant records from the Commissioner and after examination of such records, if the Settlement Commission is of the opinion that any further inquiry or investigation in the matter is necessary, it may direct the Commissioner to make or cause to be made such further inquiry or investigation and furnish a report on the matters covered by the application and any other matter relating to the case

(4) After examination of the records and the report of the Commissioner, received under sub-section (1), and the report, if any, of the Commissioner received under sub-section (3), and after giving an opportunity to the applicant and to the Commissioner to be heard, either in person or through a representative duly authorised in this behalf, and after examining such further evidence as may be placed before it or obtained by it, the Settlement Commission may, in accordance with the provisions of this Act, pass such order as it thinks fit on the matters covered by the application and any other matter relating to the case not covered by the application, but referred to in the report of the Commissioner under sub-section (1) or sub-section (3)

(5) The materials brought on record before the Settlement Commission shall be considered by all the members thereof before passing any order under sub-section (4) and, in the case of a difference of opinion among the members, the opinion of the majority shall prevail and such order shall be expressed in terms of the views of the majority

(6) Every order passed under sub-section (4) shall provide for the terms of settlement including any demand by way of tax, penalty or interest, the manner in which any sum due under the settlement shall be paid and all other matters to make the settlement effective and shall also provide that the settlement shall be void if it is subsequently found by the Settlement Commission that it has been obtained by fraud or misrepresentation of facts

(7) Where a settlement becomes void as provided under sub-section (6), the proceedings with respect to the matters covered by the settlement shall be deemed to have been revived from the stage at which the application was allowed to be proceeded with by the Settlement Commission and the Income-tax authority concerned, may, notwithstanding anything contained in any other provision of this Act, complete such proceedings at any time before the expiry of two years from the end of the financial year in which the settlement became void

245E. Power of Settlement Commission to reopen completed proceedings.—If the Settlement Commission is of the opinion (the reasons for such opinion to be recorded by it in writing) that, for the proper disposal of the case pending before it, it is necessary or expedient to reopen any proceeding connected with the case but which has been completed under the Indian Income-tax Act, 1922 (XI of 1922), or under this Act by any Income-tax authority before the application under section 245C was made, it may, with the concurrence of the applicant, reopen such proceeding and pass such order thereon as it thinks fit, as if the case in relation to which the application for settlement had been made by the applicant under that section covered such proceeding also

Provided that no proceeding shall be reopened by the Settlement Commission under this section after the expiry of a period of eight years from the end of the assessment year to which such proceeding relates

245F. Powers and procedure of Settlement Commission.—(1) In addition to the powers conferred on the Settlement Commission under this Chapter, it shall have all the powers which are vested in an Income-tax authority under this Act

(2) Where an application made under section 245C has been allowed to be proceeded with under section 245D, the Settlement Commission shall, until an order is passed under sub-section (4) of section 245D, have, subject to the provisions of sub-section (3) of that section, exclusive jurisdiction to exercise the powers and perform the functions of an Income-tax authority under this Act in relation to the case

(3) Notwithstanding anything contained in sub-section (2) and in the absence of any express direction to the contrary by the Settlement Commission, nothing contained in this section shall affect the operation of any other provision of this Act requiring the applicant to pay tax on the basis of self-assessment or by way of advance tax in relation to the matters before the Settlement Commission

(4) For the removal of doubt, it is hereby declared that, in the absence of any express direction by the Settlement Commission to the contrary, nothing in this Chapter shall affect the operation of the provisions of this Act in so far as they relate to any matters other than those before the Settlement Commission

(5) The Settlement Commission shall, subject to the provisions of this Chapter, have power to regulate its own procedure (including the fixation of places and times of its meetings) and may act notwithstanding that all the members of the Settlement Commission are not present at any of its meetings

245G. Inspection, etc., of reports.—No person shall be entitled to inspect, or obtain copies of, any reports made by any Income-tax authority to the Settlement

Commission, but the Settlement Commission may, in its discretion, furnish copies thereof to any such person on an application made to it in this behalf and on payment of the prescribed fee

Provided that, for the purpose of enabling any person whose case is under consideration to rebut any evidence brought on record against him in any such report, the Settlement Commission shall, on an application made in this behalf, and on payment of the prescribed fee by such person, furnish him with a certified copy of any such report or part thereof relevant for the purpose

245H. Power of Settlement Commission to grant immunity from prosecution and penalty.—(1) The Settlement Commission may, if it is satisfied that any person who made the application for settlement under section 245C has co-operated with the Settlement Commission in the proceedings before it and has made a full and true disclosure of his income and the manner in which such income has been derived, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act or under the Indian Penal Code (XLV of 1860) or under any other Central Act for the time being in force and also from the imposition of any penalty under this Act, with respect to the case covered by the settlement

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Settlement Commission, if it is satisfied that such person has not complied with the conditions subject to which the immunity was granted or that such person had, in the course of the settlement proceedings, concealed any particulars material to the settlement or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the settlement and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had not such immunity been granted

245-I. Order of settlement to be conclusive.—Every order of settlement passed under sub-section (4) of section 245D shall be conclusive as to the matters stated therein and no matter covered by such order shall, save as otherwise provided in this Chapter, be reopened in any proceeding under this Act or under any other law for the time being in force

245J. Recovery of sums due under order of settlement.—Any sum specified in an order of settlement passed under sub-section (4) of section 245D may, subject to such conditions, if any, as may be specified therein, be recovered, and any penalty for default in making payment of such sum may be imposed and recovered in accordance with the provisions of Chapter XVII, by the Income-tax Officer having jurisdiction over the person who made the application for settlement under section 245C

245K. Bar on subsequent application for settlement in certain cases.—Where,—

(*i*) an order of settlement passed under sub-section (4) of section 245D provides for the imposition of a penalty on the person who made the application under section 245C for settlement, on the ground of concealment of particulars of his income, or

(*ii*) after the passing of an order of settlement under the said sub-section (4) in relation to a case, such person is convicted of any offence under Chapter XXII in relation to that case,

then, he shall not be entitled to apply for settlement under section 245C in relation to any other matter

245L. Proceedings before Settlement Commission to be judicial proceedings.—Any proceeding under this Chapter before the Settlement Commission shall be deemed to

be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code (XLV of 1860)

245M. Certain persons who have filed appeals to the Appellate Tribunal entitled to make applications to the Settlement Commission—(1) Notwithstanding anything contained in this Chapter, any assessee who has filed an appeal to the Appellate Tribunal under this Act which is pending before it shall, on withdrawing such appeal from the Appellate Tribunal, be entitled to make an application to the Settlement Commission to have his case settled under this Chapter

Provided that no such assessee shall be entitled to make an application in a case where the Income-tax Officer has preferred an appeal under sub-section (2) of section 253 against the order to which the assessee's appeal relates

(2) Any assessee referred to in sub-section (1) may make an application to the Appellate Tribunal for permission to withdraw the appeal

(3) On receipt of an application under sub-section (2), the Appellate Tribunal shall grant permission to withdraw the appeal

(4) Upon the withdrawal of the appeal, the proceeding in appeal immediately before such withdrawal shall, for the purposes of this Chapter, be deemed to be a proceeding pending before an Income-tax authority

(5) An application to the Settlement Commission under this section shall be made within a period of thirty days from the date on which the order of the Appellate Tribunal permitting the withdrawal of the appeal is communicated to the assessee

(6) An application made to the Settlement Commission under this section shall be deemed to be an application made under sub-section (1) of section 245C and the provisions of this Chapter (except sub-section (7) of section 245D) shall apply accordingly

(7) Where an application made to the Settlement Commission under this section is not entertained by the Settlement Commission, then the assessee shall not be deemed to have withdrawn the appeal from the Appellate Tribunal and the provisions contained in section 253, section 254 and section 255 shall, so far as may be, apply accordingly]

CHAPTER XX

APPEALS AND REVISION

A —Appeals to the Appellate Assistant Commissioner

246. Appealable orders.—Any assessee aggrieved by any of the following orders of an Income-tax Officer may appeal to the Appellate Assistant Commissioner against such order—

(*a*) an order against the assessee, being a company, under section 104,

(*b*) an order imposing a fine under sub-section (2) of section 131,

(*c*) an order against the assessee, where the assessee denies his liability to be assessed under this Act or any order of assessment under sub-section (3) of section 143 or section 144, where the assessee objects to the amount of income assessed, or to the amount of tax determined, or to the amount of loss computed, or to the status under which he is assessed,

(*d*) an order under section 146 refusing to reopen an assessment made under section 144,

(*e*) an order of assessment, reassessment or recomputation under section 147 or section 150,

(*f*) an order under section 154 or section 155 having the effect of enhancing the assessment or reducing a refund or an order refusing to allow the claim made by the assessee under either of the said sections,

(*g*) an order made under section 163 treating the assessee as the agent of a non-resident,

(*h*) an order under sub-section (2) or sub-section (3) of section 170,

(*i*) an order under section 171,

[11][(*j*) an order under clause (*b*) of sub-section (1) or under sub-section (2) or sub-section (3) or sub-section (5) of section 185,]

(*k*) an order cancelling the registration of a firm under sub-section (1) or under sub-section (2) of section 186,

(*l*) an order under section 201,

(*m*) an order under section 216,

(*n*) an order under section 237,

(*o*) an order imposing a penalty under—

[12][(*i*) section 140A, or

(*i-a*) section 221, or]

(*ii*) section 270, or

(*iii*) section 271, or

[13][(*iii-a*) section 271A, or]

(*iv*) section 272, or

[13][(*iv-a*) section 272B, or]

(*v*) section 273

[14]* *

Explanation —"Status" means the category under which the assessee is assessed as "individual", "Hindu undivided family" and so on

247. Appeal by partner.—Where the partners of a firm are individually assessable on their shares in the total income of the firm, any such partner may appeal to the Appellate Assistant Commissioner against any order of an Income-tax Officer determining the amount of the total income or the loss of the firm or the apportionment thereof between the several partners, but he cannot agitate such matters in any appeal preferred against an order of assessment determining his own total income or loss.

248. Appeal by person denying liability to deduct tax.—Any person having in accordance with the provisions of sections 195 and 200 deducted and paid tax in respect of any sum chargeable under this Act, other than interest, who denies his liability to make such deduction, may appeal to the Appellate Assistant Commissioner to be declared not liable to make such deduction.

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[11] Substituted by s 44, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971
[12] Substituted for "(*i*) section 221, or " by s 38, F Act, 1964, w e f 1-4-1964
[13] Inserted by s 58, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976
[14] "(*vi*) section 280R" inserted by s 38, F. Act, 1964, w e f 1-4-1964, and omitted by s 32 and 3rd Sch , F Act, 1966, w e f 1-4-1967

Rr 45, 46 **249 Form of appeal and limitation.**—(1) Every appeal under this Chapter shall be in the prescribed form and shall be verified in the prescribed manner.

(2) The appeal shall be presented within thirty days of the following date, that is to say,—

(*a*) where the appeal relates to any tax deducted under sub-section (1) of section 195, the date of payment of the tax, or

(*b*) where the appeal relates to any assessment or penalty, the date of service of the notice of demand relating to the assessment or penalty:

[15][Provided that, where an application has been made under section 146 for reopening an assessment, the period from the date on which the application is made to the date on which the order passed on the application is served on the assessee shall be excluded,] or

(*c*) in any other case, the date on which intimation of the order sought to be appealed against is served.

(3) The Appellate Assistant Commissioner may admit an appeal after the expiration of the said period if he is satisfied that the appellant had sufficient cause for not presenting it within that period

[15][(4) No appeal under this Chapter shall be admitted unless at the time of filing of the appeal,—

(*a*) where a return has been filed by the assessee, the assessee has paid the tax due on the income returned by him, or

(*b*) where no return has been filed by the assessee, the assessee has paid an amount equal to the amount of advance tax which was payable by him

Provided that, on an application made by the appellant in this behalf, the Appellate Assistant Commissioner may, for any good and sufficient reason to be recorded in writing, exempt him from the operation of the provisions of this sub-section]

250. Procedure in appeal.—(1) The Appellate Assistant Commissioner shall fix a day and place for the hearing of the appeal, and shall give notice of the same to the appellant and to the Income-tax Officer against whose order the appeal is preferred.

(2) The following shall have the right to be heard at the hearing of the appeal—

(*a*) the appellant, either in person or by an authorised representative,

(*b*) the Income-tax Officer, either in person or by a representative.

(3) The Appellate Assistant Commissioner shall have the power to adjourn the hearing of the appeal from time to time.

(4) The Appellate Assistant Commissioner may, before disposing of any appeal, make such further inquiry as he thinks fit, or may direct the Income-tax Officer to make further inquiry and report the result of the same to the Appellate Assistant Commissioner

(5) The Appellate Assistant Commissioner may, at the hearing of an appeal, allow the appellant to go into any ground of appeal not specified in the grounds of appeal, if the Appellate Assistant Commissioner is satisfied that the omission of that ground from the form of appeal was not wilful or unreasonable

[15] Inserted by s 59, Taxation Laws (Amendment) Act, 1975, w e f 1-10-1975

(6) The order of the Appellate Assistant Commissioner disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision

(7) On the disposal of the appeal, the Appellate Assistant Commissioner shall communicate the order passed by him to the assessee and to the Commissioner.

251. Powers of the Appellate Assistant Commissioner.—(1) In disposing of an appeal, the Appellate Assistant Commissioner shall have the following powers—

(*a*) in an appeal against an order of assessment, he may confirm, reduce, enhance or annul the assessment, or he may set aside the assessment and refer the case back to the Income-tax Officer for making a fresh assessment in accordance with the directions given by the Appellate Assistant Commissioner and after making such further inquiry as may be necessary, and the Income-tax Officer shall thereupon proceed to make such fresh assessment and determine, where necessary, the amount of tax payable on the basis of such fresh assessment;

(*b*) in an appeal against an order imposing a penalty, he may confirm or cancel such order or vary it so as either to enhance or to reduce the penalty,

(*c*) in any other case, he may pass such orders in the appeal as he thinks fit

(2) The Appellate Assistant Commissioner shall not enhance an assessment or a penalty or reduce the amount of refund unless the appellant has had a reasonable opportunity of showing cause against such enhancement or reduction

Explanation —In disposing of an appeal, the Appellate Assistant Commissioner may consider and decide any matter arising out of the proceedings in which the order appealed against was passed, notwithstanding that such matter was not raised before the Appellate Assistant Commissioner by the appellant

B —Appeals to the Appellate Tribunal

252. Appellate Tribunal.—(1) The Central Government shall constitute an Appellate Tribunal consisting of as many judicial and accountant members as it thinks fit to exercise the powers and discharge the functions conferred on the Appellate Tribunal by this Act

(2) A judicial member shall be a person who has for at least ten years held a civil judicial post or who has been a member of the Central Legal Service (not below Grade III) for at least three years or who has been in practice as an advocate for at least ten years, and an accountant member shall be a person who has for at least ten years been in the practice of accountancy as a chartered accountant under the Chartered Accountants Act, 1949 (XXXVIII of 1949), or as a registered accountant under any law formerly in force or partly as a registered accountant and partly as a chartered accountant, or who has served as an Assistant Commissioner of Income-tax for at least three years

(3) The Central Government shall ordinarily appoint a judicial member of the Appellate Tribunal to be the President thereof

[16][(4) The Central Government may appoint one or more members of the Appellate Tribunal to be the Vice-President or, as the case may be, Vice-Presidents thereof

[16] Inserted by s 40, F Act, 1972, w e f 1-4-1972

(5) A Vice-President shall exercise such of the powers and perform such of the functions of the President as may be delegated to him by the President by a general or special order in writing]

R 47 **253. Appeals to the Appellate Tribunal.**—(1) Any assessee aggrieved by any of the following orders may appeal to the Appellate Tribunal against such order—

(*a*) an order passed by an Appellate Assistant Commissioner under sub-section (2) of section 131, [17][section 154,] section 250, [18][section 271, section 271A or section 272A], or

(*b*) an order passed by an Inspecting Assistant Commissioner under [17][section 154 or] [19][section 272A], or

(*c*) an order passed by a Commissioner under section 263 [20][or under section 272A] [21][or under section 285A or an order passed by him under section 154 amending his order under section 263]

(2) The Commissioner may, if he objects to any order passed by an Appellate Assistant Commissioner under [21][section 154 or] section 250, direct the Income-tax Officer to appeal to the Appellate Tribunal against the order.

(3) Every appeal under sub-section (1) or sub-section (2) shall be filed within sixty days of the date on which the order sought to be appealed against is communicated to the assessee or to the Commissioner, as the case may be

(4) The Income-tax Officer or the assessee, as the case may be, on receipt of notice that an appeal against the order of the Appellate Assistant Commissioner has been preferred under sub-section (1) or sub-section (2) by the other party, may, notwithstanding that he may not have appealed against such order or any part thereof, within thirty days of the receipt of the notice, file a memorandum of cross-objections, verified in the prescribed manner, against any part of the order of the Appellate Assistant Commissioner, and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (3)

(5) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (3) or sub-section (4), if it is satisfied that there was sufficient cause for not presenting it within that period

(6) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, except in the case of an appeal referred to in sub-section (2) or a memorandum of cross-objections referred to in sub-section (4), be accompanied by a fee of [22][one hundred and twenty-five rupees]

254. Orders of Appellate Tribunal.—(1) The Appellate Tribunal may, after giving both the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit

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[17] Inserted by s 12, Direct Taxes (Amendment) Act, 1964, w e f 6-10-1964
[18] Substituted for "or section 271" by s 60, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976
[19] Substituted for "sub-section (2) of section 274", *ibid*, w e f 1-4-1976
[20] Inserted, *ibid*, w e f 1-4-1976
[21] Inserted by s 12, Direct Taxes (Amendment) Act, 1964, w e f 6-10-1964
[22] Substituted for "rupees one hundred" by s 45, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

[23](1A) * * * * *

(2) The Appellate Tribunal may, at any time within four years from the date of the order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (1), and shall make such amendment if the mistake is brought to its notice by the assessee or the Income-tax Officer

Provided that an amendment which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee, shall not be made under this sub-section unless the Appellate Tribunal has given notice to the assessee of its intention to do so and has allowed the assessee a reasonable opportunity of being heard

(3) The Appellate Tribunal shall send a copy of any orders passed under this section to the assessee and to the Commissioner

(4) Save as provided in section 256, orders passed by the Appellate Tribunal on appeal shall be final

255. Procedure of Appellate Tribunal.—(1) The powers and functions of the Appellate Tribunal may be exercised and discharged by Benches constituted by the President of the Appellate Tribunal from among the members thereof

(2) Subject to the provisions contained in sub-section (3), a Bench shall consist of one judicial member and one accountant member

(3) The President or any other member of the Appellate Tribunal authorised in this behalf by the Central Government may, sitting singly, dispose of any case which has been allotted to the Bench of which he is a member and which pertains to an assessee whose total income as computed by the Income-tax Officer in the case does not exceed [24][forty] thousand rupees, and the President may, for the disposal of any particular case, constitute a special Bench consisting of three or more members, one of whom shall necessarily be a judicial member and one an accountant member

(4) If the members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, they shall state the point or points on which they differ, and the case shall be referred by the President of the Appellate Tribunal for hearing on such point or points by one or more of the other members of the Appellate Tribunal, and such point or points shall be decided according to the opinion of the majority of the members of the Appellate Tribunal who have heard the case, including those who first heard it

(5) Subject to the provisions of this Act, the Appellate Tribunal shall have power to regulate its own procedure and the procedure of Benches thereof in all matters arising out of the exercise of its powers or of the discharge of its functions, including the places at which the Benches shall hold their sittings

(6) The Appellate Tribunal shall, for the purpose of discharging its functions, have all the powers which are vested in the Income-tax authorities referred to in

[23] Inserted by s 39, F Act, 1964, w e f 1-4-1964, and omitted by s 3, Taxation Laws (Amendment) Act, 1972, w e f 1-1-1973

"*Saving and special provision* —(1) Notwithstanding the omission of sub-section (1A) of section 254 of the Income-tax Act, 1961 (XLIII of 1961), by section 3 of this Act, every requisition by an appellant for the making of a reference under that sub-section and every reference made under that sub-section before such omission shall be dealt with as if the said sub-section had not been omitted, and, save as aforesaid, no such reference shall be made after such omission

* * *"—*S 25, Taxation Laws (Amendment) Act, 1972*

[24] Substituted for "twenty-five" by s 46, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

section 131, and any proceeding before the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purpose of section 196 of the Indian Penal Code (XLV of 1860), and the Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (V of 1898)

C—Reference to High Court

R 48 **256. Statement of case to the High Court.**—(1) The assessee or the Commissioner may, within sixty days of the date upon which he is served with notice of an order under section 254, by application in the prescribed form, accompanied where the application is made by the assessee by a fee of [25][one hundred and twenty-five rupees], require the Appellate Tribunal to refer to the High Court any question of law arising out of such order and, subject to the other provisions contained in this section, the Appellate Tribunal shall, within one hundred and twenty days of the receipt of such application, draw up a statement of the case and refer it to the High Court

Provided that the Appellate Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the period hereinbefore specified, allow it to be presented within a further period not exceeding thirty days

(2) If, on an application made under sub-section (1), the Appellate Tribunal refuses to state the case on the ground that no question of law arises, the assessee or the Commissioner, as the case may be, may, within six months from the date on which he is served with notice of such refusal, apply to the High Court, and the High Court may, if it is not satisfied with the correctness of the decision of the Appellate Tribunal, require the Appellate Tribunal to state the case and to refer it, and on receipt of any such requisition, the Appellate Tribunal shall state the case and refer it accordingly

(3) Where in the exercise of its powers under sub-section (2), the Appellate Tribunal refuses to state a case which it has been required by the assessee to state, the assessee may, within thirty days from the date on which he receives notice of such refusal, withdraw his application, and, if he does so, the fee paid shall be refunded

257. Statement of case to Supreme Court in certain cases.—If, on an application made under section 256 the Appellate Tribunal is of the opinion that, on account of a conflict in the decisions of High Courts in respect of any particular question of law, it is expedient that a reference should be made direct to the Supreme Court, the Appellate Tribunal may draw up a statement of the case and refer it through its President direct to the Supreme Court

258. Power of High Court or Supreme Court to require statement to be amended.—If the High Court or the Supreme Court is not satisfied that the statements in a case referred to it are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the Appellate Tribunal for the purpose of making such additions thereto or alterations therein as it may direct in that behalf

259. Case before High Court to be heard by not less than two judges.—(1) When any case has been referred to the High Court under section 256, it shall be heard by a Bench of not less than two judges of the High Court, and shall be decided in accordance with the opinion of such judges or of the majority, if any, of such judges

[25] Substituted for "rupees one hundred" by s 47, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

(2) Where there is no such majority, the judges shall state the point of law upon which they differ, and the case shall then be heard upon that point only by one or more of the other judges of the High Court, and such point shall be decided according to the opinion of the majority of the judges who have heard the case including those who first heard it

260. Decision of High Court or Supreme Court on the case stated.—(1) The High Court or the Supreme Court upon hearing any such case shall decide the questions of law raised therein, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and a copy of the judgment shall be sent under the seal of the Court and the signature of the Registrar to the Appellate Tribunal which shall pass such orders as are necessary to dispose of the case conformably to such judgment

(2) The costs of any reference to the High Court or the Supreme Court which shall not include the fee for making the reference shall be in the discretion of the Court

D—Appeals to the Supreme Court

261. Appeal to Supreme Court.—An appeal shall lie to the Supreme Court from any judgment of the High Court delivered on a reference made under section 256 in any case which the High Court certifies to be a fit one for appeal to the Supreme Court

262. Hearing before Supreme Court.—(1) The provisions of the Code of Civil Procedure, 1908 (V of 1908), relating to appeals to the Supreme Court shall, so far as may be, apply in the case of appeals under section 261 as they apply in the case of appeals from decrees of a High Court

Provided that nothing in this section shall be deemed to affect the provisions of sub-section (1) of section 260 or section 265

(2) The costs of the appeal shall be in the discretion of the Supreme Court

(3) Where the judgment of the High Court is varied or reversed in the appeal, effect shall be given to the order of the Supreme Court in the manner provided in section 260 in the case of a judgment of the High Court

E—Revision by the Commissioner

263. Revision of orders prejudicial to revenue.—(1) The Commissioner may call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by the Income-tax Officer is erroneous in so far as it is prejudicial to the interests of the revenue, he may, after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment, or cancelling the assessment and directing a fresh assessment

(2) No order shall be made under sub-section (1)—

(*a*) to revise an order of reassessment made under section 147, or

(*b*) after the expiry of two years from the date of the order sought to be revised

(3) Notwithstanding anything contained in sub-section (2), an order in revision under this section may be passed at any time in the case of an order which has been

passed in consequence of, or to give effect to, any finding or direction contained in an order of the Appellate Tribunal, the High Court or the Supreme Court

Explanation—In computing the period of limitation for the purposes of sub-section (2), the time taken in giving an opportunity to the assessee to be reheard under the proviso to section 129 and any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded

264. Revision of other orders.—*(1)* In the case of any order other than an order to which section 263 applies passed by an authority subordinate to him, the Commissioner may, either of his own motion or on an application by the assessee for revision, call for the record of any proceeding under this Act in which any such order has been passed and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may pass such order thereon, not being an order prejudicial to the assessee, as he thinks fit

(2) The Commissioner shall not of his own motion revise any order under this section if the order has been made more than one year previously

(3) In the case of an application for revision under this section by the assessee, the application must be made within one year from the date on which the order in question was communicated to him or the date on which he otherwise came to know of it, whichever is earlier

Provided that the Commissioner may, if he is satisfied that the assessee was prevented by sufficient cause from making the application within that period, admit an application made after the expiry of that period

(4) The Commissioner shall not revise any order under this section in the following cases—

(*a*) where an appeal against the order lies to the Appellate Assistant Commissioner or to the Appellate Tribunal but has not been made and the time within which such appeal may be made has not expired, or, in the case of an appeal to the Appellate Tribunal, the assessee has not waived his right of appeal, or

(*b*) where the order is pending on an appeal before the Appellate Assistant Commissioner, or

(*c*) where the order has been made the subject of an appeal to the Appellate Tribunal

(5) Every application by an assessee for revision under this section shall be accompanied by a fee of twenty-five rupees

Explanation 1—An order by the Commissioner declining to interfere shall, for the purposes of this section, be deemed not to be an order prejudicial to the assessee

Explanation 2—For the purposes of this section, the Appellate Assistant Commissioner shall be deemed to be an authority subordinate to the Commissioner.

F—General

265 Tax to be paid notwithstanding reference, etc.—Notwithstanding that a reference has been made to the High Court or the Supreme Court or an appeal has been preferred to the Supreme Court, tax shall be payable in accordance with the assessment made in the case

266. Execution for costs awarded by Supreme Court.—The High Court may, on petition made for the execution of the order of the Supreme Court in respect of any costs awarded thereby, transmit the order for execution to any court subordinate to the High Court

267. Amendment of assessment on appeal.—Where as the result of an appeal under section 246 or section 253, any change is made in the assessment of a firm or body of individuals or an association of persons or a new assessment of a firm or a body of individuals or an association of persons is ordered to be made, the Appellate Assistant Commissioner or the Appellate Tribunal, as the case may be, shall pass an order authorising the Income-tax Officer either to amend the assessment made on any partner of the firm or any member of the body or association or make a fresh assessment on any partner of the firm or on any member of the body or association

268. Exclusion of time taken for copy.—In computing the period of limitation prescribed for an appeal or an application under this Act, the day on which the order complained of was served and, if the assessee was not furnished with a copy of the order when the notice of the order was served upon him, the time requisite for obtaining a copy of such order, shall be excluded

269. Definition of "High Court".—In this Chapter,—

"High Court" means,—

(*i*) in relation to any State, the High Court for that State,

[1][(*ii*) in relation to the Union territory of Delhi, the High Court of Delhi,

(*ii-a*) [2]* * * * *]

[3][(*iii*) in relation to the Union territories of Arunachal Pradesh and Mizoram, the Gauhati High Court (the High Court of Assam, Nagaland, Meghalaya, Manipur and Tripura),]

(*iv*) in relation to the Union territory of the Andaman and Nicobar islands, the High Court at Calcutta,

(*v*) in relation to the Union territory of [4][Lakshadweep], the High Court of Kerala,

[1][(*v-a*) in relation to the Union territory of Chandigarh, the High Court of Punjab and Haryana,]

[5][(*vi*) in relation to the Union territories of Dadra and Nagar Haveli and Goa, Daman and Diu, the High Court at Bombay, and

(*vii*) in relation to the Union territory of Pondicherry, the High Court at Madras]

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1 Cls (*ii*) and (*ii-a*) substituted for cl (*ii*), and cl (*v-a*) inserted, by cl 3 and Sch , Punjab Reorganisation and Delhi High Court (Adaptation of Laws on Union Subjects) Order, 1968, w e f 1-11-1966

2 Omitted by cl 3 and Sch , State of Himachal Pradesh (Adaptation of Laws on Union Subjects) Order, 1973, w e f 25-1-1971

3 Substituted by cl 3 and Sch , North-Eastern Areas (Reorganisation) (Adaptation of Laws on Union Subjects) Order, 1974, w e f 21-1-1972

4 Substituted for "the Laccadive, Minicoy and Amindivi islands" by cl 3 and Sch , Laccadive, Minicoy and Amindivi Islands (Alteration of Name) Adaptation of Laws Order, 1974, w e f 1-11-1973

5 Inserted by cl 3 and Sch , Taxation Laws (Extension to Union Territories) Regulation, 1963, w e f 1-4-1963

[6][CHAPTER XX-A

ACQUISITION OF IMMOVABLE PROPERTIES IN CERTAIN CASES OF TRANSFER TO COUNTERACT EVASION OF TAX

269A. Definitions.—In this Chapter, unless the context otherwise requires,—

(*a*) "apparent consideration", in relation to any immovable property transferred, means,—

(*i*) if the transfer is by way of sale, the consideration for such transfer as specified in the instrument of transfer,

(*ii*) if the transfer is by way of exchange,—

(*A*) in a case where the consideration for the transfer consists of a thing or things only, the price that such thing or things would ordinarily fetch on sale in the open market on the date of execution of the instrument of transfer;

(*B*) in a case where the consideration for the transfer consists of a thing or things and a sum of money, the aggregate of the price that such thing or things would ordinarily fetch on sale in the open market on the date of execution of the instrument of transfer and such sum,

(*b*) "competent authority" means an Assistant Commissioner of Income-tax authorised by the Central Government under section 269B to perform the functions of a competent authority under this Chapter;

(*c*) "court" means a principal civil court of original jurisdiction unless the Central Government has appointed (as it is hereby authorised to do) any special judicial officer within any specified local limits to perform the functions of the court under this Chapter,

(*d*) "fair market value", in relation to any immovable property transferred, means the price that the immovable property would ordinarily fetch on sale in the open market on the date of execution of the instrument of transfer of such property,

(*e*) "immovable property" means any land or any building or part of a building, and includes, where any land or any building or part of a building is transferred together with any machinery, plant, furniture, fittings or other things, such machinery, plant, furniture, fittings or other things also,

Explanation—For the purposes of this clause, land, building, part of a building, machinery, plant, furniture, fittings and other things include any rights therein,

(*f*) "instrument of transfer" means the instrument of transfer registered under the Registration Act, 1908 (XVI of 1908),

(*g*) "person interested", in relation to any immovable property, includes all persons claiming, or entitled to claim, an interest in the compensation payable on account of the acquisition of that property under this Chapter,

(*h*) "transfer", in relation to any immovable property, means transfer of such property by way of sale or exchange.

[6] Inserted by s 4, Taxation Laws (Amendment) Act, 1972, w. e f 15-11-1972

269B. Competent authority.—(1) The Central Government may, by general or special order published in the Official Gazette,— R 48D

(*a*) authorise as many Assistant Commissioners of Income-tax, as it thinks fit, to perform the functions of a competent authority under this Chapter, and

(*b*) define the local limits within which the competent authorities shall perform their functions under this Chapter.

(2) In respect of any function to be performed by a competent authority under any provision of this Chapter in relation to any immovable property referred to in section 269C, the competent authority referred to therein shall,—

(*a*) in a case where such property is situate within the local limits of the jurisdiction of only one competent authority, be such competent authority,

(*b*) in a case where such property is situate within the local limits of the jurisdiction of two or more competent authorities, be the competent authority empowered to perform such functions in relation to such property in accordance with rules made in this behalf by the Board under section 295

(3) No person shall be entitled to call in question the jurisdiction of a competent authority in respect of any immovable property after the expiry of thirty days from the date on which such competent authority initiates proceedings under section 269D for the acquisition of such property

(4) Subject to the provisions of sub-section (3), where the jurisdiction of a competent authority is questioned, the competent authority shall, if satisfied with the correctness of the claim, by order in writing, determine the question accordingly and if he is not so satisfied, he shall refer the question to the Board and the Board shall, by order in writing, determine the question

269C. Immovable property in respect of which proceedings for acquisition may be taken.—(1) Where the competent authority has reason to believe that any immovable property of a fair market value exceeding twenty-five thousand rupees has been transferred by a person (hereafter in this Chapter referred to as the transferor) to another person (hereafter in this Chapter referred to as the transferee) for an apparent consideration which is less than the fair market value of the property and that the consideration for such transfer as agreed to between the parties has not been truly stated in the instrument of transfer with the object of—

(*a*) facilitating the reduction or evasion of the liability of the transferor to pay tax under this Act in respect of any income arising from the transfer, or

(*b*) facilitating the concealment of any income or any moneys or other assets which have not been or which ought to be disclosed by the transferee for the purposes of the Indian Income-tax Act, 1922 (XI of 1922), or this Act or the Wealth-tax Act, 1957 (XXVII of 1957),

the competent authority may, subject to the provisions of this Chapter, initiate proceedings for the acquisition of such property under this Chapter·

Provided that before initiating such proceedings, the competent authority shall record his reasons for doing so

Provided further that no such proceedings shall be initiated unless the competent authority has reason to believe that the fair market value of the property exceeds the

apparent consideration therefor by more than fifteen per cent. of such apparent consideration

(2) In any proceedings under this Chapter in respect of any immovable property,—

(a) where the fair market value of such property exceeds the apparent consideration therefor by more than twenty-five per cent of such apparent consideration, it shall be conclusive proof that the consideration for such transfer as agreed to between the parties has not been truly stated in the instrument of transfer,

(b) where the property has been transferred for an apparent consideration which is less than its fair market value, it shall be presumed, unless the contrary is proved, that the consideration for such transfer as agreed to between the parties has not been truly stated in the instrument of transfer with such object as is referred to in clause (a) or clause (b) of sub-section (1)

R 48E **269D. Preliminary notice.**—(1) The competent authority shall initiate proceedings for the acquisition, under this Chapter, of any immovable property referred to in section 269C by notice to that effect published in the Official Gazette

Provided that no such proceedings shall be initiated in respect of any immovable property after the expiration of a period of [7][nine] months from the end of the month in which the instrument of transfer in respect of such property is registered under the Registration Act, 1908 (XVI of 1908)

Provided further that—

(a) in a case where it is determined under sub-section (4) of section 269B by the competent authority who has initiated proceedings for the acquisition of any immovable property under this Chapter or by the Board that such competent authority has no jurisdiction to initiate such proceedings, the competent authority having jurisdiction may initiate such proceedings within—

(i) the period of [7][nine] months specified in the foregoing proviso, or

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[7] Retrospectively substituted for "six" by s 2, I T (Amendment) Act, 1973

"*Validation*.—(1) No notice for the initiation of proceedings for the acquisition of any immovable property under Chapter XX-A of the principal Act which was issued by the competent authority before the commencement of this Act for publication in the Official Gazette, in the exercise of or the purported exercise of the powers under section 269D of the principal Act, shall be called in question merely on the ground that such notice was not published in the Official Gazette before the expiration of a period of six months from the end of the month in which the instrument of transfer in respect of such property was registered under the Registration Act, 1908 (XVI of 1908), if such notice was either published in the Official Gazette before the expiration of a period of nine months from the end of the month in which the instrument of transfer in respect of such property was registered under the Registration Act, 1908, or could not be so published within the said period of nine months by reason of any injunction or order of any court

(2) Every notice, which by virtue of the provisions of sub-section (1) shall not be called in question as provided therein, shall be deemed to have been issued in accordance with law and shall, for the purposes of sub-section (1) of section 269D of the principal Act, be deemed to have operated or, where such notice is published in the Official Gazette after the commencement of this Act, to operate to initiate the proceedings for the acquisition of the immovable property to which such notice relates on the date of publication of such notice in the Official Gazette

Provided that—

(a) the jurisdiction of a competent authority in respect of any such property may be called in question before the expiry of the period specified in sub-section (3) of section 269B of the principal Act or a period of thirty days from the commencement of this Act, whichever period expires later,

(b) objections against the acquisition of any such immovable property may be made under section 269E of the principal Act within the period allowed under that section or a period of forty-five days from the commencement of this Act, whichever period expires later "—

S 3, I T (Amendment) Act, 1973

(*ii*) a period of thirty days from the date of such determination,

whichever period expires later,

(*b*) in a case where proceedings for the acquisition of any immovable property under this Chapter could not be initiated during any period of time by reason of any injunction or order of any court prohibiting the initiation of such proceedings or preventing the examination of documents or other materials required to be examined for the purpose of determining whether such proceedings should be initiated, the time of the continuance of the injunction or order, the day on which it was issued or made and the day on which it was withdrawn shall be excluded in computing the period during which such proceedings may be initiated under this sub-section

(2) The competent authority shall—

(*a*) cause a notice under sub-section (1) in respect of any immovable property to be served on the transferor, the transferee, the person in occupation of the property, if the transferee is not in occupation thereof, and on every person whom the competent authority knows to be interested in the property,

(*b*) cause such notice to be published—

(*i*) in his office by affixing a copy thereof to a conspicuous place,

(*ii*) in the locality in which the immovable property to which it relates is situate, by affixing a copy thereof to a conspicuous part of the property and also by making known in such manner as may be prescribed the substance of such notice at convenient places in the said locality

269E. Objections.—(1) Objections against the acquisition of the immovable property in respect of which a notice has been published in the Official Gazette under sub-section (1) of section 269D may be made—

(*a*) by the transferor or the transferee or any other person referred to in clause (*a*) of sub-section (2) of that section, within a period of forty-five days from the date of such publication or a period of thirty days from the date of service of notice on such person under the said clause, whichever period expires later,

(*b*) by any other person interested in such immovable property, within forty-five days from the date of such publication

(2) Every objection under sub-section (1) shall be made to the competent authority in writing

(3) For the removal of doubts, it is hereby declared that objection may be made under sub-section (1) that the provisions of clause (*a*) of sub-section (2) of section 269C do not apply in relation to any immovable property on the ground that the fair market value of such property does not exceed the apparent consideration therefor by more than twenty-five per cent of such apparent consideration

269F. Hearing of objections.—(1) The competent authority shall fix a day and place for the hearing of the objections made under section 269E against the acquisition under this Chapter of any immovable property, and shall give notice of the same to every person who has made such objection

Provided that such notice shall also be given to the transferee of such property even if he has not made any such objection

(2) Every person to whom a notice is given under sub-section (1) shall have the right to be heard at the hearing of the objections

(3) The competent authority shall have the power to adjourn the hearing of the objections from time to time

(4) The competent authority may, before disposing of the objections, make such further inquiry as he thinks fit

(5) *The decision* of the competent authority in respect of the objections heard shall be in writing and shall state the reasons for the decision with respect to each objection.

(6) If after hearing the objections, if any, and after taking into account all the relevant material on record, the competent authority is satisfied that,—

(*a*) the immovable property to which the proceedings relate is of a fair market value exceeding twenty-five thousand rupees,

(*b*) the fair market value of such property exceeds the apparent consideration therefor by more than fifteen per cent of such apparent consideration, and

(*c*) the consideration for such transfer as agreed to between the parties has not been truly stated in the instrument of transfer with such object as is referred to in clause (*a*) or clause (*b*) of sub-section (1) of section 269C,

he may, after obtaining the approval of the Commissioner, make an order for the acquisition of the property under this Chapter

Explanation —In this sub-section, "Commissioner", in relation to a competent authority, means such Commissioner as the Board may, by general or special order in writing, specify in this behalf

(7) If the competent authority is not satisfied as provided in sub-section (6), he shall, by order in writing, declare that the property will not be acquired under this Chapter

(8) The competent authority shall serve a copy of his order under sub-section (6) or sub-section (7), as the case may be, on the transferor, the transferee and on every person who has made objections against such acquisition under section 269E

(9) In any proceedings under this Chapter in respect of any immovable property, no objection shall be entertained on the ground that although the apparent consideration for the property is less than the fair market value of the property on the date of the execution of the instrument of transfer, the consideration as agreed to between the parties has been truly stated in the instrument of transfer because such consideration was agreed to having regard to the price that such property would have ordinarily fetched on sale in the open market on the date of the conclusion of the agreement to sell the property, except where such agreement has been registered under the Registration Act, 1908 (XVI of 1908)

269G. Appeal against order for acquisition.—(1) An appeal may be preferred to the Appellate Tribunal against the order for the acquisition of any immovable property made by the competent authority under section 269F,—

(*a*) by the transferor or the transferee or any other person referred to in sub-section (8) of that section, within a period of forty-five days from the date of such order or a period of thirty days from the date of service of a copy of the order on such person under the said sub-section, whichever period expires later,

(*b*) by any other person interested in such immovable property, within forty-five days from the date of such order

Provided that the Appellate Tribunal may, on an application made in this behalf before the expiry of the said period of forty-five days or, as the case may be, thirty days, permit, by order, the appeal to be presented within such further period as may be specified therein if the applicant satisfies the Appellate Tribunal that he has sufficient cause for not being able to present the appeal within the said period of forty-five days or, as the case may be, thirty days

(2) Every appeal under this section shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a fee of one hundred and twenty-five rupees **R 48F**

(3) The Appellate Tribunal shall fix a day and place for the hearing of the appeal and shall give notice of the same to the appellant and to the competent authority

(4) The Appellate Tribunal may, after giving the appellant and the competent authority an opportunity of being heard, pass such orders thereon as it thinks fit

(5) The Appellate Tribunal may, at any time within thirty days from the date of the order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (4) and shall make such amendment if the mistake is brought to its notice by the appellant or the competent authority

Provided that if any such amendment is likely to affect any person prejudicially, it shall not be made without giving to such person a reasonable opportunity of being heard.

(6) The Appellate Tribunal shall send a copy of any orders passed under this section to the appellant and to the Commissioner

(7) Save as provided in section 269H, orders passed by the Appellate Tribunal on appeal shall be final

(8) Every appeal under this section shall be disposed of as expeditiously as possible and endeavour shall be made to dispose of every such appeal within ninety days from the date on which it is presented

(9) The provisions of section 255 (except sub-section (3) thereof) shall, so far as may be, apply in relation to the powers, functions and proceedings of the Appellate Tribunal under this section as they apply in relation to the powers, functions and proceedings of the Appellate Tribunal under Chapter XX

269H. Appeal to High Court.—(1) The Commissioner or any person aggrieved by any order of the Appellate Tribunal under section 269G may, within sixty days of the date on which he is served with notice of such order under that section, prefer an appeal against such order to the High Court on any question of law

Provided that the High Court may, on an application made in this behalf before the expiry of the said period of sixty days, permit, by order, the appeal to be presented within such further period as may be specified therein, if the applicant satisfies the High Court that he has sufficient cause for not being able to present the appeal within the said period of sixty days

(2) An appeal under sub-section (1) shall be heard by a Bench of not less than two Judges of the High Court and the provisions of section 259 shall apply in relation to any such appeal as they apply in relation to a case referred to the High Court under section 256

(3) The costs of the appeal shall be in the discretion of the High Court

269-I. Vesting of property in Central Government.—(1) As soon as may be after the order for acquisition of any immovable property made under sub-section (6) of section 269F becomes final, the competent authority may, by notice in writing, order

any person who may be in possession of the immovable property to surrender or deliver possession thereof to the competent authority or any other person duly authorised in writing by the competent authority in this behalf, within thirty days of the date of the service of the notice

Explanation —For the purposes of this sub-section, an order for the acquisition of any immovable property (hereafter in this *Explanation* referred to as the order for acquisition) made under sub-section (6) of section 269F becomes final,—

(*a*) in a case where the order for acquisition is not made the subject of an appeal to the Appellate Tribunal under section 269G, upon the expiry of the period during which such appeal may be presented under that section,

(*b*) in a case where the order for acquisition is made the subject of an appeal to the Appellate Tribunal under section 269G,—

(*i*) if the order for acquisition is confirmed by the Appellate Tribunal and the order of the Appellate Tribunal is not made the subject of an appeal to the High Court under section 269H, upon the expiry of the period during which such appeal may be presented under that section to the High Court,

(*ii*) if the order of the Appellate Tribunal is made the subject of an appeal to the High Court under section 269H, upon the confirmation of the order for acquisition by the High Court

(2) If any person refuses or fails to comply with the notice under sub-section (1), the competent authority or other person duly authorised by the competent authority under that sub-section may take possession of the immovable property and may, for that purpose, use such force as may be necessary

(3) Notwithstanding anything contained in sub-section (2), the competent authority may, for the purpose of taking possession of any property referred to in sub-section (1), requisition the services of any police officer to assist him and it shall be the duty of such officer to comply with such requisition

(4) When the possession of the immovable property is surrendered or delivered under sub-section (1) to the competent authority or a person duly authorised by him in that behalf or, as the case may be, when the possession thereof is taken under sub-section (2) or sub-section (3) by such authority or person, the property shall vest absolutely in the Central Government free from all encumbrances

Provided that nothing in this sub-section shall operate to discharge the transferee or any other person (not being the Central Government) from liability in respect of such encumbrances and, notwithstanding anything contained in any other law, such liability may be enforced against the transferee or such other person by a suit for damages

269J. Compensation.—(1) Where any immovable property is acquired under this Chapter, the Central Government shall pay for such acquisition compensation which shall be a sum equal to the aggregate of the amount of the apparent consideration for its transfer and fifteen per cent of the said amount

(2) Notwithstanding anything contained in sub-section (1),—

(*a*) where, after the transfer to the transferee of the property referred to in that sub-section but before the vesting of the property in the Central Government, the property has been damaged (otherwise than as a result of normal wear and tear), the compensation payable under that sub-section shall be reduced by such amount as the competent authority and the persons entitled to the compensation may agree within fifteen days of the vesting of the property in the Central Government or in default of

such agreement as the court may, on a reference made to it in this behalf by the competent authority or by any person duly authorised for the purpose by the competent authority, determine to be the amount that may have to be expended for restoring the property to the condition in which it was at the time of such transfer,

(*b*) where, after the transfer of such property to the transferee but before the date of publication in the Official Gazette of the notice in respect of such property under sub-section (1) of section 269D, any improvements have been made to the property, whether by way of addition or alteration or in any other manner, the compensation payable in respect of such property under sub-section (1) shall be increased by such amount as the competent authority and the persons entitled to the compensation may agree within fifteen days of the vesting of the property in the Central Government or in default of such agreement as the court may, on a reference made to it in this behalf by the competent authority or by any person duly authorised for the purpose by the competent authority, determine to be the amount spent for making such improvements

(3) Every reference under clause (*a*) or clause (*b*) of sub-section (2) shall be made within thirty days of the date on which the immovable property to which it relates becomes vested in the Central Government or within such further period as the court may, on an application made in this behalf before the expiry of the said period and on being satisfied that there is sufficient cause for doing so, allow and such reference shall state clearly the compensation payable under sub-section (1) in respect of the immovable property and the amount by which, according to the estimate of the competent authority, such compensation shall be reduced under clause (*a*) or, as the case may be, increased under clause (*b*), of sub-section (2)

(4) The amount by which the compensation payable under sub-section (1) in respect of any immovable property acquired under this Chapter falls short of the amount which would have been payable as compensation if that property had been acquired under the Land Acquisition Act, 1894 (I of 1894), after the issue of a preliminary notice under section 4 of that Act on the date of publication in the Official Gazette of the notice in respect of the property under sub-section (1) of section 269D, shall be deemed to have been realised by the Central Government as a penalty from the transferee for being a party to a transfer with such object as is referred to in clause (*a*) or clause (*b*) of sub-section (1) of section 269C, and no penalty shall be levied for any assessment year on the transferee—

(*a*) under clause (*iii*) of sub-section (1) of section 271, for concealing the particulars or furnishing inaccurate particulars of so much of his income as is utilised by him for paying to the transferor, by way of consideration for the property, any amount in excess of the apparent consideration for the property, notwithstanding that such amount is included in the income of the transferee,

(*b*) under clause (*iii*) of sub-section (1) of section 18 of the Wealth-tax Act, 1957 (XXVII of 1957), for concealing the particulars or furnishing inaccurate particulars of so much of his assets as are utilised by him for paying to the transferor, by way of consideration for the property, any amount in excess of the apparent consideration for the property, notwithstanding that such assets are included in the net wealth of the transferee

269K. Payment or deposit of compensation.—(1) The amount of compensation payable in accordance with the provisions of section 269J for the acquisition of any immovable property shall be tendered to the person or persons entitled thereto, as

soon as may be, after the property becomes vested in the Central Government under sub-section (4) of section 269-I

Provided that in any case where a reference is or has to be made under sub-section (2) of section 269J to the court for the determination of the amount by which the compensation payable under sub-section (1) of that section shall be reduced or increased, the amount of such compensation as reduced or increased by the amount estimated in that behalf by the competent authority for the purposes of such reference shall be tendered as aforesaid.

(2) Notwithstanding anything contained in sub-section (1), if any dispute arises as to the apportionment of the compensation amongst persons claiming to be entitled thereto, the Central Government shall deposit in the court the compensation required to be tendered under sub-section (1) and refer such dispute for the decision of the court and the decision of the court thereon shall be final

(3) Notwithstanding anything contained in sub-section (1), if the persons entitled to compensation do not consent to receive it, or if there is no person competent to alienate the immovable property, or if there is any dispute as to the title to receive the compensation, the Central Government shall deposit in the court the compensation required to be tendered under sub-section (1) and refer the matter for the decision of the court

Provided that nothing herein contained shall affect the liability of any person who may receive the whole or any part of the compensation for any immovable property acquired under this Chapter to pay the same to the person lawfully entitled thereto.

(4) If the Central Government fails to tender under sub-section (1) or deposit under sub-section (2) or sub-section (3) the whole or any part of the compensation required to be tendered or deposited thereunder within thirty days of the date on which the immovable property to which the compensation relates becomes vested in the Central Government under sub-section (4) of section 269-I, the Central Government shall be liable to pay simple interest at the rate of twelve per cent per annum reckoned from the day immediately following the date of expiry of the said period up to the date on which it so tenders or deposits such compensation or, as the case may be, such part of the compensation

(5) Where any amount of compensation (including interest, if any, thereon) has been deposited in the court under this section, the court may, either of its own motion or on an application made by or on behalf of any party interested or claiming to be interested in such amount, order the same to be invested in such Government or other securities as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as will, in its opinion, give the parties interested therein the same benefit therefrom as they might have had from the immovable property in respect whereof such amount has been deposited or as near thereto as may be

269L. Assistance by Valuation Officers.—(1) The competent authority may,—

(*a*) for the purpose of initiating proceedings for the acquisition of any immovable property under section 269C or for the purpose of making an order under section 269F in respect of any immovable property, require a Valuation Officer to determine the fair market value of such property and report the same to him,

(*b*) for the purpose of estimating the amount by which the compensation payable under sub-section (1) of section 269J in respect of any immovable property may be reduced or, as the case may be, increased under clause (*a*) or clause (*b*) of sub-section (2) of that section, require the Valuation Officer to make such estimate and report the same to him.

(2) The Valuation Officer to whom a reference is made under clause (*a*) or clause (*b*) of sub-section (1) shall, for the purpose of dealing with such reference, have all the powers that he has under section 38A of the Wealth-tax Act, 1957 (XXVII of 1957)

(3) If in an appeal under section 269G against the order for acquisition of any immovable property, the fair market value of such property is in dispute, the Appellate Tribunal shall, on a request being made in this behalf by the competent authority, give an opportunity of being heard to any Valuation Officer nominated for the purpose by the competent authority

Explanation —In this section, "Valuation Officer" has the same meaning as in clause (*r*) of section 2 of the Wealth-tax Act, 1957 (XXVII of 1957)

269M. Powers of competent authority.—The competent authority shall have, for the purposes of this Chapter, all the powers that a Commissioner has, for the purposes of this Act, under section 131

269N. Rectification of mistakes.—With a view to rectifying any mistake apparent from the record, the competent authority may amend any order made by him under this Chapter at any time before the time for presenting an appeal against such order has expired, either on his own motion or on the mistake being brought to his notice by any person affected by the order

Provided that if any such amendment is likely to affect any person prejudicially, it shall not be made without giving to such person a reasonable opportunity of being heard

269-O. Appearance by authorised representative or registered valuer.—Any person who is entitled or required to attend before a competent authority or the Appellate Tribunal in any proceeding under this Chapter, otherwise than when required to attend personally for examination on oath or affirmation, may attend—

(*a*) by an authorised representative in connection with any matter;

(*b*) by a registered valuer in connection with any matter relating to the valuation of any immovable property for the purposes of this Chapter or the estimation of the amount by which the compensation payable under sub-section (1) of section 269J for the acquisition of any immovable property may be reduced or, as the case may be, increased in accordance with the provisions of clause (*a*) or clause (*b*) of sub-section (2) of that section

Explanation —In this section,—

(*i*) "authorised representative" has the same meaning as in section 288,

(*ii*) "registered valuer" has the same meaning as in clause (*oaa*) of section 2 of the Wealth-tax Act, 1957 (XXVII of 1957)

269P. Statement to be furnished in respect of transfers of immovable property.— *R
(1) Notwithstanding anything contained in any other law for the time being in force, 48G
no registering officer appointed under the Registration Act, 1908 (XVI of 1908), shall register any document which purports to transfer any immovable property belonging to any person unless a statement in duplicate in respect of such transfer, in the prescribed form and verified in the prescribed manner and setting forth such particulars as may be prescribed, is furnished to him along with the instrument of transfer

[8][Provided that the provisions of this sub-section shall not apply in relation to any document which purports to transfer any immovable property for an apparent consideration not exceeding ten thousand rupees

[8] Inserted by s 2, I T (Amendment) Act, 1973, w e f 1-1-1974

Explanation—For the purposes of this proviso, "apparent consideration" shall have the meaning assigned to it in clause (*a*) of section 269A subject to the modifications that for the expressions "immovable property transferred" and "instrument of transfer" occurring in that clause, the expressions "immovable property purported to be transferred" and "document purporting to transfer such immovable property" shall, respectively, be substituted]

(2) The registering officer shall, at the end of every fortnight, forward to the competent authority,—

(*a*) one set of the statements received by him under sub-section (1) during the fortnight, and

R 48H (*b*) a return in the prescribed form and verified in the prescribed manner and setting forth such particulars as may be prescribed in respect of documents of the nature referred to in sub-section (1) which have been registered by him during the fortnight

269Q. Chapter not to apply to transfers to relatives.—The provisions of this Chapter shall not apply to or in relation to any transfer of immovable property made by a person to his relative on account of natural love and affection for a consideration which is less than its fair market value if a recital to that effect is made in the instrument of transfer

269R. Properties liable for acquisition under this Chapter not to be acquired under other laws.—Notwithstanding anything contained in the Land Acquisition Act, 1894 (I of 1894), or any corresponding law for the time being in force, no immovable property referred to in section 269C shall be acquired for any purpose of the Union under that Act or such law unless the time for initiation of proceedings for the acquisition of such property under this Chapter has expired without such proceedings having been initiated or unless the competent authority has declared that such property will not be acquired under this Chapter

269S. Chapter not to extend to State of Jammu and Kashmir.—The provisions of this Chapter shall not extend to the State of Jammu and Kashmir]

CHAPTER XXI

PENALTIES IMPOSABLE

270. Failure to furnish information regarding securities, etc.—If any person without reasonable excuse fails to comply with a notice issued under sub-section (6) of section 94, the Income-tax Officer may direct that such person shall pay by way of penalty a sum not exceeding five hundred rupees and by way of further penalty a like amount for every day after the infliction of such penalty during which the failure continues

271. Failure to furnish returns, comply with notices, concealment of income, etc.—(1) If the Income-tax Officer or the Appellate Assistant Commissioner in the course of any proceedings under this Act, is satisfied that any person—

(*a*) has without reasonable cause failed to furnish the return of [9]* * total income which he was required to furnish under sub-section (1) of

[9] "His" omitted by s 17, F Act, 1963, w e f 28-4-1963

section 139 or by notice given under sub-section (2) of section 139 or section 148 or has without reasonable cause failed to furnish it within the time allowed and in the manner required by sub-section (1) of section 139 or by such notice, as the case may be, or

(*b*) has without reasonable cause failed to comply with a notice under sub-section (1) of section 142 or sub-section (2) of section 143 [10][or fails to comply with a direction issued under sub-section (2A) of section 142], or

(*c*) has concealed the particulars of his income or [11]* * furnished inaccurate particulars of such income,

he may direct that such person shall pay by way of penalty,—

[12][[12][(*i*) in the cases referred to in clause (*a*),—

(*a*) in the case of a person referred to in sub-section (4A) of section 139, where the total income in respect of which he is assessable as a representative assessee does not exceed the maximum amount which is not chargeable to income-tax, a sum not exceeding one per cent of the total income computed under this Act without giving effect to the provisions of sections 11 and 12, for each year or part thereof during which the default continued,

(*b*) in any other case, in addition to the amount of the tax, if any, payable by him, a sum equal to two per cent of the assessed tax for every month during which the default continued,]

Explanation —In this clause "assessed tax" means tax as reduced by the sum, if any, deducted at source under Chapter XVII-B or paid in advance under Chapter XVII-C,]

(*ii*) in the cases referred to in clause (*b*), in addition to any tax payable by him, a sum which shall not be less than ten per cent but which shall not exceed fifty per cent of the amount of the tax, if any, which would have been avoided if the income returned by such person had been accepted as the correct income,

[13][(*iii*) in the cases referred to in clause (*c*), in addition to any tax payable by him, a sum which shall not be less than, but which shall not exceed twice, the amount of tax sought to be evaded by reason of the concealment of particulars of his income or the furnishing of inaccurate particulars of such income

Provided that, if in a case falling under clause (*c*), the amount of income (as determined by the Income-tax Officer on assessment) in respect of which the particulars have been concealed or inaccurate particulars have been furnished exceeds a sum of twenty-five thousand rupees, the Income-tax Officer shall not issue any direction for payment by way of penalty without the previous approval of the Inspecting Assistant Commissioner]

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[10] Inserted by s 61, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976
[11] "Deliberately" omitted by s 40, F Act, 1964, w e f 1-4-1964
[12] Cl (*i*) and Explanation retrospectively substituted for the original cl (*i*) by s 13, Direct Taxes (Amendment) Act, 1974, subject to savings prescribed by s 22 of the Amendment Act regarding certain cases decided by the Supreme Court, and the present cl (*i*) substituted by s 61, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976
[13] Substituted by s 19, F Act, 1968, w e f 1-4-1968, and further substituted by s 61, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976

[14][*Explanation 1* —Where in respect of any facts material to the computation of the total income of any person under this Act,—

(*A*) such person fails to offer an explanation or offers an explanation which is found by the Income-tax Officer or the Appellate Assistant Commissioner to be false, or

(*B*) such person offers an explanation which he is not able to substantiate,

then, the amount added or disallowed in computing the total income of such person as a result thereof shall, for the purposes of clause (*c*) of this sub-section, be deemed to represent the income in respect of which particulars have been concealed

Provided that nothing contained in this *Explanation* shall apply to a case referred to in clause (*B*) in respect of any amount added or disallowed as a result of the rejection of any explanation offered by such person, if such explanation is bona fide and all the facts relating to the same and material to the computation of his total income have been disclosed by him

Explanation 2 —Where the source of any receipt, deposit, outgoing or investment in any assessment year is claimed by any person to be an amount which had been added in computing the income or deducted in computing the loss in the assessment of such person for any earlier assessment year or years but in respect of which no penalty under clause (*iii*) of this sub-section had been levied, that part of the amount so added or deducted in such earlier assessment year immediately preceding the year in which the receipt, deposit, outgoing or investment appears (such earlier assessment year hereafter in this *Explanation* referred to as the first preceding year) which is sufficient to cover the amount represented by such receipt, deposit or outgoing or value of such investment (such amount or value hereafter in this *Explanation* referred to as the utilised amount) shall be treated as the income of the assessee, particulars of which had been concealed or inaccurate particulars of which had been furnished for the first preceding year, and where the amount so added or deducted in the first preceding year is not sufficient to cover the utilised amount, that part of the amount so added or deducted in the year immediately preceding the first preceding year which is sufficient to cover such part of the utilised amount as is not so covered shall be treated to be the income of the assessee, particulars of which had been concealed or inaccurate particulars of which had been furnished for the year immediately preceding the first preceding year and so on, until the entire utilised amount is covered by the amounts so added or deducted in such earlier assessment years

Explanation 3 —Where any person who has not previously been assessed under the Indian Income-tax Act, 1922 (XI of 1922), or under this Act, fails, without reasonable cause, to furnish within the period specified in sub-clause (*iii*) of clause (*a*) of sub-section (1) of section 153 a return of his income which he is required to furnish under section 139 in respect of any assessment year commencing on or after the 1st day of April, 1974, and, until the expiry of the period aforesaid, no notice has been issued to him under sub-section (2) of section 139 or section 148 and the Income-tax Officer or the Appellate Assistant Commissioner is satisfied that in respect of such assessment year such person has taxable income, then, such person shall, for the purposes of clause (*c*) of this sub-section, be deemed to have concealed the particulars of his income in respect of such assessment year, notwithstanding that such person furnishes a return of his income at any time after the expiry of the period aforesaid in pursuance of a notice under section 148

Explanation 4 —For the purposes of clause (*iii*) of this sub-section, the expression "the amount of tax sought to be evaded",—

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[14] The original Explanation inserted by s 40, F Act, 1964, w e f 1-4-1964, and the present Explanations substituted by s 61, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976

(*a*) in any case where the amount of income in respect of which particulars have been concealed or inaccurate particulars have been furnished exceeds the total income assessed, means the tax that would have been chargeable on the income in respect of which particulars have been concealed or inaccurate particulars have been furnished had such income been the total income,

(*b*) in any case to which *Explanation 3* applies, means the tax on the total income assessed,

(*c*) in any other case, means the difference between the tax on the total income assessed and the tax that would have been chargeable had such total income been reduced by the amount of income in respect of which particulars have been concealed or inaccurate particulars have been furnished]

[15][(1A) Where any penalty is imposable by virtue of *Explanation 2* to sub-section (1), proceedings for the imposition of such penalty may be initiated notwithstanding that any proceedings under this Act in the course of which such penalty proceedings could have been initiated under sub-section (1) have been completed]

(2) When the person liable to penalty is a registered firm or an unregistered firm which has been assessed under clause (*b*) of section 183, then, notwithstanding anything contained in the other provisions of this Act, the penalty imposable under sub-section (1) shall be the same amount as would be imposable on that firm if that firm were an unregistered firm

(3) Notwithstanding anything contained in this section,—

(*a*) no penalty for failure to furnish the return of his total income under sub-section (1) of section 139 shall be imposed under sub-section (1) on an assessee whose total income does not exceed the maximum amount not chargeable to tax in his case by one thousand five hundred rupees,

(*b*) where a person has failed to comply with a notice under sub-section (2) of section 139 or section 148 and proves that he has no income liable to tax, the penalty imposable under sub-section (1) shall not exceed twenty-five rupees,

(*c*) no penalty shall be imposed under sub-section (1) upon any person assessable under clause (*i*) of sub-section (1) of section 160, read with section 161, as the agent of a non-resident for failure to furnish the return under sub-section (1) of section 139,

[16][(*d*) the penalty imposed under clause (*i*) of sub-section (1) and the penalty imposed under clause (*iii*) of that sub-section, read with *Explanation 3* thereto, shall not exceed in the aggregate twice the amount of the tax sought to be evaded

Provided that nothing contained in clause (*a*) or clause (*b*) shall apply to a case referred to in sub-clause (*a*) of clause (*i*) of sub-section (1)]

(4) If the Income-tax Officer or the Appellate Assistant Commissioner in the course of any proceedings under this Act, is satisfied that the profits of a registered firm have been distributed otherwise than in accordance with the shares of the partners as shown in the instrument of partnership on the basis of which the firm has been registered under this Act, and that any partner has thereby returned his income below its real amount, he may direct that such partner shall, in addition to the tax, if any, payable by him, pay by way of penalty a sum not exceeding one and a half times the

[15] Inserted by s 61, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976
[16] Inserted, *ibid*, w e f 1-4-1976

amount of tax which has been avoided, or would have been avoided if the income returned by such partner had been accepted as his correct income, and no refund or other adjustment shall be claimable by any other partner by reason of such direction

[17](4A)—(4B) * * * * *

[18][**271A Failure to keep, maintain or retain books of account, documents, etc.**—Without prejudice to the provisions of section 271, if any person, without reasonable cause, fails to keep and maintain any such books of account and other documents as required by section 44AA or the rules made thereunder, in respect of any previous year or to retain such books of account and other documents for the period specified in the said rules, the Income-tax Officer or the Appellate Assistant Commissioner may direct that such person shall pay, by way of penalty, a sum which shall not be less than ten per cent but which shall not exceed fifty per cent of the amount of the tax, if any, which would have been avoided if the income returned by such person had been accepted as the correct income]

272. Failure to give notice of discontinuance.—Where any person fails to give the notice of discontinuance of his business or profession as required by sub-section (3) of section 176, the Income-tax Officer may direct that a sum shall be recovered from him by way of penalty which shall not be less than ten per cent of the tax but which shall not exceed the amount of tax subsequently assessed on him in respect of any income of the business or profession up to the date of its discontinuance

[19][**272A. Penalty for failure to answer questions, sign statements, allow inspections, etc.**—(1) If a person,—

(*a*) being legally bound to state the truth of any matter touching the subject of his assessment, refuses to answer any question demanded of him by an Income-tax Officer or an Appellate Assistant Commissioner or an Inspecting Assistant Commissioner or a Commissioner in the exercise of his powers under this Act, or

(*b*) refuses to sign any statement made by him in the course of any proceeding under this Act which an Income-tax Officer or an Appellate Assistant Commissioner or an Inspecting Assistant Commissioner or a Commissioner may legally require him to sign,

he shall pay, by way of penalty, a sum which may extend to one thousand rupees

(2) If a person, without reasonable cause or excuse, fails,—

(*a*) to furnish in due time any of the returns or statements mentioned in section 133, section 206, section 285, section 285B or section 286, or

(*b*) to allow inspection of any register referred to in section 134 or of any entry in such register or to allow copies of such register or of any entry therein to be taken, or

(*c*) to furnish a certificate as required by section 203, or

(*d*) to deduct and pay tax as required by sub-section (2) of section 226,

he shall pay, by way of penalty, a sum which may extend to ten rupees for every day during which the failure continues.

(3) Any penalty imposable under sub-section (1) or sub-section (2) shall be imposed,—

(*a*) in a case where the contravention, failure or default in respect of which such penalty is imposable occurs in the course of any proceeding before

[17] Inserted by s 3, I T (Amendment) Act, 1965, w e f 12-3-1965, and omitted by s 61, Taxation Laws (Amendment) Act, 1975, w e f 1-10-1975

[18] Inserted by s 62, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976

[19] Inserted by s 63, *ibid*, w e f 1-4-1976

the Commissioner or the Appellate Assistant Commissioner, by the Commissioner or, as the case may be, the Appellate Assistant Commissioner, and

(b) in any other case, by the Inspecting Assistant Commissioner.

(4) No order under this section shall be passed by any officer referred to in sub-section (3) unless the person on whom the penalty is proposed to be imposed is given an opportunity of being heard in the matter by such officer.

272B. Penalty for failure to comply with the provisions of section 139A.—(1) If a person, without reasonable cause, fails to comply with the provisions of section 139A, he shall, on an order passed by the Income-tax Officer, pay, by way of penalty, a sum which may extend to five hundred rupees.

(2) No order under sub-section (1) shall be passed unless the person on whom the penalty is proposed to be imposed is given an opportunity of being heard in the matter]

[20][**273. False estimate of, or failure to pay, advance tax.**—If the Income-tax Officer, in the course of any proceedings in connection with the regular assessment for the assessment year commencing on the 1st day of April, 1970, or any subsequent assessment year, is satisfied that any assessee—

(a) has furnished under section 212 an estimate of the advance tax payable by him which he knew or had reason to believe to be untrue, or

(b) has without reasonable cause failed to furnish an estimate of the advance tax payable by him in accordance with the provisions of sub-section (3) of section 212, or

(c) has without reasonable cause failed to furnish an estimate of the advance tax payable by him in accordance with the provisions of sub-section (3A) of section 212,

he may direct that such person shall, in addition to the amount of tax, if any, payable by him, pay by way of penalty a sum—

(i) which, in the case referred to in clause (a), shall not be less than ten per cent but shall not exceed one and a half times the amount by which the tax actually paid during the financial year immediately preceding the assessment year under the provisions of Chapter XVII-C falls short of—

(1) seventy-five per cent of the assessed tax as defined in sub-section (5) of section 215, or

(2) where a notice under section 210 was issued to the assessee, the amount payable thereunder,

whichever is less,

(ii) which, in the case referred to in clause (b), shall not be less than ten per cent but shall not exceed one and a half times of seventy-five per cent of the assessed tax as defined in sub-section (5) of section 215, and

(iii) which, in the case referred to in clause (c), shall not be less than ten per cent but shall not exceed one and a half times the amount by which the tax payable under the notice issued to the assessee under section 210 falls short of seventy-five per cent of the assessed tax as defined in sub-section (5) of section 215]

[20] Substituted by s 22, F Act, 1969, w e f 1-4-1970.

[21][**273A. Power to reduce or waive penalty, etc., in certain cases.**—(1) Notwithstanding anything contained in this Act, the Commissioner may, in his discretion, whether on his own motion or otherwise,—

(*i*) reduce or waive the amount of penalty imposed or imposable on a person under clause (*i*) of sub-section (1) of section 271 for failure, without reasonable cause, to furnish the return of total income which he was required to furnish under sub-section (1) of section 139, or

(*ii*) reduce or waive the amount of penalty imposed or imposable on a person under clause (*iii*) of sub-section (1) of section 271, or

(*iii*) reduce or waive the amount of interest paid or payable under sub-section (8) of section 139 or section 215 or section 217 or the penalty imposed or imposable under section 273,

if he is satisfied that such person—

(*a*) in the case referred to in clause (*i*), has, prior to the issue of a notice to him under sub-section (2) of section 139, voluntarily and in good faith made full and true disclosure of his income,

(*b*) in the case referred to in clause (*ii*), has, prior to the detection by the Income-tax Officer, of the concealment of particulars of income or of the inaccuracy of particulars furnished in respect of such income, voluntarily and in good faith, made full and true disclosure of such particulars,

(*c*) in the cases referred to in clause (*iii*), has, prior to the issue of a notice to him under sub-section (2) of section 139, or where no such notice has been issued and the period for the issue of such notice has expired, prior to the issue of notice to him under section 148, voluntarily and in good faith made full and true disclosure of his income and has paid the tax on the income so disclosed,

and also has, in all the cases referred to in clauses (*a*), (*b*) and (*c*), co-operated in any inquiry relating to the assessment of his income and has either paid or made satisfactory arrangements for the payment of any tax or interest payable in consequence of an order passed under this Act in respect of the relevant assessment year

Explanation—For the purposes of this sub-section, a person shall be deemed to have made full and true disclosure of his income or of the particulars relating thereto in any case where the excess of income assessed over the income returned is of such a nature as not to attract the provisions of clause (*c*) of sub-section (1) of section 271

(2) Notwithstanding anything contained in sub-section (1),—

(*a*) if in a case the penalty imposed or imposable under clause (*i*) of sub-section (1) of section 271 or the minimum penalty imposable under section 273 for the relevant assessment year, or, where such disclosure relates to more than one assessment year, the aggregate of the penalty imposed or imposable under the said clause or of the minimum penalty imposable under the said section for those years, exceeds a sum of fifty thousand rupees, or

(*b*) if in a case falling under clause (*c*) of sub-section (1) of section 271, the amount of income in respect of which the penalty is imposed or imposable for the relevant assessment year, or, where such disclosure relates to more than one assessment year, the aggregate amount of such income for those years, exceeds a sum of five hundred thousand rupees,

[21] Inserted by s 64, Taxation Laws (Amendment) Act, 1975, w e f 1-10-1975

no order reducing or waiving the penalty under sub-section (1) shall be made by the Commissioner except with the previous approval of the Board

(3) Where an order has been made under sub-section (1) in favour of any person, whether such order relates to one or more assessment years, he shall not be entitled to any relief under this section in relation to any other assessment year at any time after the making of such order

(4) Without prejudice to the powers conferred on him by any other provision of this Act, the Commissioner may, on an application made in this behalf by an assessee, and after recording his reasons for so doing, reduce or waive the amount of any penalty payable by the assessee under this Act or stay or compound any proceeding for the recovery of any such amount, if he is satisfied that—

(*i*) to do otherwise would cause genuine hardship to the assessee, having regard to the circumstances of the case, and

(*ii*) the assessee has co-operated in any inquiry relating to the assessment or any proceeding for the recovery of any amount due from him

(5) Every order made under this section shall be final and shall not be called into question by any court or any other authority]

274. Procedure.—(1) No order imposing a penalty under this Chapter shall be made unless the assessee has been heard, or has been given a reasonable opportunity of being heard.

(2) [22] * * * * *

(3) An Appellate Assistant Commissioner on making an order under this Chapter imposing a penalty, shall forthwith send a copy of the same to the Income-tax Officer

[23][**275. Bar of limitation for imposing penalties.**—No order imposing a penalty under this Chapter shall be passed—

(*a*) in a case where the relevant assessment or other order is the subject-matter of an appeal to the Appellate Assistant Commissioner under section 246 or an appeal to the Appellate Tribunal under sub-section (2) of section 253, after the expiration of a period of—

(*i*) two years from the end of the financial year in which the proceedings, in the course of which action for imposition of penalty has been initiated, are completed, or

(*ii*) six months from the end of the month in which the order of the Appellate Assistant Commissioner or, as the case may be, the Appellate Tribunal is received by the Commissioner,

whichever period expires later,

(*b*) in any other case, after the expiration of two years from the end of the financial year in which the proceedings, in the course of which action for imposition of penalty has been initiated, are completed

[24][*Explanation*—In computing the period of limitation for the purposes of this section,—

(*i*) the time taken in giving an opportunity to the assessee to be reheard under the proviso to section 129,

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[22] Omitted by s 65, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976
[23] Substituted by s 50, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971
[24] Substituted by s 66, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976

(*ii*) any period during which the immunity granted under section 245H remained in force, and

(*iii*) any period during which a proceeding under this Chapter for the levy of penalty is stayed by an order or injunction of any court,

shall be excluded]]

CHAPTER XXII

OFFENCES AND PROSECUTIONS

[25][**275A. Contravention of order made under sub-section (3) of section 132.**— Whoever contravenes any order referred to in sub-section (3) of section 132 shall be punishable with rigorous imprisonment which may extend to two years and shall also be liable to fine]

276.—*Omitted by s 67 of the Taxation Laws (Amendment) Act, 1975, with effect from 1st April 1976*

[1][**276A. Failure to comply with the provisions of sub-sections (1) and (3) of section 178.**—If a person, without reasonable cause or excuse,—

(*i*) fails to give the notice in accordance with sub-section (1) of section 178, or

(*ii*) fails to set aside the amount as required by sub-section (3) of that section; or

(*iii*) parts with any of the assets of the company or the properties in his hands in contravention of the provisions of the aforesaid sub-section,

he shall be punishable with rigorous imprisonment for a term which may extend to two years

Provided that in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for less than six months]

[2][**276B. Failure to deduct or pay tax.**—If a person, without reasonable cause or excuse, fails to deduct or after deducting, fails to pay the tax as required by or under the provisions of sub-section (9) of section 80E or Chapter XVII-B, he shall be punishable,—

(*i*) in a case where the amount of tax which he has failed to deduct or pay exceeds one hundred thousand rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine,

(*ii*) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and with fine]

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[25] Inserted by s 4, I T (Amendment) Act, 1965, w e f 12-3-1965
[1] Inserted by s 58, F Act, 1965, w e f 1-4-1965
[2] Inserted by s 21, F Act, 1968, w e f 1-4-1968, and substituted by s 68, Taxation Laws (Amendment) Act, 1975, w e f 1-10-1975

[3][276C. **Wilful attempt to evade tax, etc.**—(1) If a person wilfully attempts in any manner whatsoever to evade any tax, penalty or interest chargeable or imposable under this Act, he shall, without prejudice to any penalty that may be imposable on him under any other provision of this Act, be punishable,—

(*i*) in a case where the amount sought to be evaded exceeds one hundred thousand rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine,

(*ii*) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and with fine

(2) If a person wilfully attempts in any manner whatsoever to evade the payment of any tax, penalty or interest under this Act, he shall, without prejudice to any penalty that may be imposable on him under any other provision of this Act, be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and shall, in the discretion of the court, also be liable to fine

Explanation—For the purposes of this section, a wilful attempt to evade any tax, penalty or interest chargeable or imposable under this Act or the payment thereof shall include a case where any person—

(*i*) has in his possession or control any books of account or other documents (being books of account or other documents relevant to any proceeding under this Act) containing a false entry or statement, or

(*ii*) makes or causes to be made any false entry or statement in such books of account or other documents, or

(*iii*) wilfully omits or causes to be omitted any relevant entry or statement in such books of account or other documents, or

(*iv*) causes any other circumstance to exist which will have the effect of enabling such person to evade any tax, penalty or interest chargeable or imposable under this Act or the payment thereof

276CC. Failure to furnish returns of income.—If a person wilfully fails to furnish in due time the return of income which he is required to furnish under sub-section (1) of section 139 or by notice given under sub-section (2) of section 139 or section 148, he shall be punishable,—

(*i*) in a case where the amount of tax, which would have been evaded if the failure had not been discovered, exceeds one hundred thousand rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine,

(*ii*) in any other case, with imprisonment for a term which shall not be less than three months but which may extend to three years and with fine

Provided that a person shall not be proceeded against under this section for failure to furnish in due time the return of income under sub-section (1) of section 139—

(*i*) for any assessment year commencing prior to the 1st day of April, 1975, or

(*ii*) for any assessment year commencing on or after the 1st day of April, 1975, if—

(*a*) the return is furnished by him before the expiry of the assessment year, or

[3] The original s 276C inserted by s 52, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971, and the present ss 276C and 276CC substituted by s 68, Taxation Laws (Amendment) Act, 1975, w e f 1-10-1975

(*b*) the tax payable by him on the total income determined on regular assessment, as reduced by the advance tax, if any, paid, and any tax deducted at source, does not exceed three thousand rupees]

[4][**276D. Failure to produce accounts and documents.**—If a person wilfully fails to produce, or cause to be produced, on or before the date specified in any notice served on him under sub-section (1) of section 142, such accounts and documents as are referred to in the notice [5][or wilfully fails to comply with a direction issued to him under sub-section (2A) of that section], he shall be punishable with rigorous imprisonment for a term which may extend to one year or with fine equal to a sum calculated at a rate which shall not be less than four rupees or more than ten rupees for every day during which the default continues, or with both]

[6][**277. False statement in verification, etc.**—If a person makes a statement in any verification under this Act or under any rule made thereunder, or delivers an account or statement which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable,—

(*i*) in a case where the amount of tax, which would have been evaded if the statement or account had been accepted as true, exceeds one hundred thousand rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine,

(*ii*) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and with fine

278. Abetment of false return, etc.—If a person abets or induces in any manner another person to make and deliver an account or a statement or declaration relating to any income chargeable to tax which is false and which he either knows to be false or does not believe to be true or to commit an offence under sub-section (1) of section 276C, he shall be punishable,—

(*i*) in a case where the amount of tax, penalty or interest which would have been evaded, if the declaration, account or statement had been accepted as true, or which is wilfully attempted to be evaded, exceeds one hundred thousand rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;

(*ii*) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and with fine

278A. Punishment for second and subsequent offences.—If any person convicted of an offence under section 276B or sub-section (1) of section 276C or section 276CC or section 277 or section 278 is again convicted of an offence under any of the aforesaid provisions, he shall be punishable for the second and for every subsequent offence with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine

278B. Offences by companies.—(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

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4 Inserted by s 52, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971
5 Inserted by s 69, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976
6 Substituted for ss 277 and 278 by s 70, *ibid*, w e f 1-10-1975

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly

Explanation —For the purposes of this section,—

(*a*) "company" means a body corporate, and includes—

(*i*) a firm, and

(*ii*) an association of persons or a body of individuals whether incorporated or not, and

(*b*) "director", in relation to—

(*i*) a firm, means a partner in the firm,

(*ii*) any association of persons or a body of individuals, means any member controlling the affairs thereof

278C. Offences by Hindu undivided families.—(1) Where an offence under this Act has been committed by a Hindu undivided family, the *karta* thereof shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly

Provided that nothing contained in this sub-section shall render the *karta* liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Hindu undivided family and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any member of the Hindu undivided family, such member shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly

278D. Presumption as to assets, books of account, etc., in certain cases.—(1) Where during the course of any search made under section 132, any money, bullion, jewellery or other valuable article or thing (hereafter in this section referred to as the assets) or any books of account or other documents has or have been found in the possession or control of any person and such assets or books of account or other documents are tendered by the prosecution in evidence against such person or against such person and the person referred to in section 278 for an offence under this Act, the provisions of sub-section (4A) of section 132 shall, so far as may be, apply in relation to such assets or books of account or other documents

(2) Where any assets or books of account or other documents taken into custody, from the possession or control of any person, by the officer or authority referred to in clause (*a*) or clause (*b*) or clause (*c*), as the case may be, of sub-section (1) of section 132A are delivered to the requisitioning officer under sub-section (2) of that section and such assets, books of account or other documents are tendered by the prosecution in evidence against such person or against such person and the person referred to in section 278 for an offence under this Act, the provisions of sub-section (4A) of section

132 shall, so far as may be, apply in relation to such assets or books of account or other documents]

279. Prosecution to be at instance of Commissioner.—[7][(1) A person shall not be proceeded against for an offence under section 275A, section 276A, section 276B, section 276C, section 276CC, section 276D, section 277, section 278 or section 278A except at the instance of the Commissioner]

[8][(1A) A person shall not be proceeded against for an offence under section 276C or section 277 in relation to the assessment for an assessment year in respect of which the penalty imposed or imposable on him under clause *(iii)* of sub-section (1) of section 271 has been reduced or waived by an order under section 273A.]

(2) The Commissioner may either before or after the institution of proceedings compound any such offence.

[9][(3) Where any proceeding has been taken against any person under sub-section (1), any statement made or account or other document produced by such person before any of the Income-tax authorities specified in clauses *(a)*,*(b)*,*(c)*,*(d)* and *(e)* of section 116 shall not be inadmissible as evidence for the purpose of such proceedings merely on the ground that such statement was made or such account or other document was produced in the belief that the penalty imposable would be reduced or waived [10][under section 273A] or that the offence in respect of which such proceeding was taken would be compounded]

[11][**279A. Certain offences to be non-cognizable.**—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (II of 1974), an offence punishable under section 276B or section 276C or section 276CC or section 277 or section 278 shall be deemed to be non-cognizable within the meaning of that Code]

280. Disclosure of particulars by public servants.—(1) If a public servant [12][furnishes any information or produces any document in contravention of the provisions of sub-section (2) of section 138], he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine.

(2) No prosecution shall be instituted under this section except with the previous sanction of the Central Government

[13][CHAPTER XXII-A

ANNUITY DEPOSITS

280A. Persons to whom this Chapter applies.—The provisions of this Chapter shall apply to every person, being—

(i) an individual, who is a citizen of India,

[7] Substituted by s 71, Taxation Laws (Amendment) Act, 1975, w e f 1-10-1975
[8] Inserted by s 5, I T (Amendment) Act, 1965, w e f 12-3-1965, and substituted by s 71, Taxation Laws (Amendment) Act, 1975, w e f 1-10-1975
[9] Inserted by s 5, I T (Amendment) Act, 1965, w e f 12-3-1965
[10] Substituted for "under sub-section (4A) of section 271" by s 71, Taxation Laws (Amendment) Act, 1975, w e f 1-10-1975
[11] Inserted by s 72, *ibid*, w e f 1-10-1975
[12] Substituted for "discloses any particulars, the disclosure of which is prohibited by section 137" by s 43, F Act, 1964, w e f 1-4-1964
[13] Inserted by s 44, *ibid*, w e f 1-4-1964

(*ii*) a Hindu undivided family,

(*iii*) an unregistered firm,

(*iv*) an association of persons or a body of individuals, whether incorporated or not (other than a company or a co-operative society), and

(*v*) an artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 (other than a corporation established by a Central, State or Provincial Act)

Provided that such person is a resident

280B. Definitions.—In this Chapter, unless the context otherwise requires,—

(*1*) "adjusted total income"—

(*a*) in relation to the assessment year commencing on the 1st day of April, 1964, means the amount of total income computed without making any allowance under section 280-O and reduced by the aggregate of the following amounts, if any, included therein, namely —

(*i*) any income chargeable under the head "Salaries",

(*ii*) if the depositor is a partner of an unregistered firm which is liable to make an annuity deposit for the relevant assessment year, the amount of his share in the profits and gains of the firm computed in the manner laid down in section 67,

(*iii*) if the depositor is a member of an association of persons or a body of individuals (other than a Hindu undivided family or a firm) which is liable to make an annuity deposit for the relevant assessment year, the amount which he is entitled to receive from the association or body,

(*iv*) any compensation or other payment referred to in clause (*ii*) of section 28, and

(*v*) any income chargeable under the head "Capital gains",

(*b*) in relation to the assessment year commencing on the 1st day of April, 1965, or any subsequent assessment year, means the amount of total income computed without making any allowance under section 280-O and reduced by the aggregate of the following amounts, if any, included therein, namely —

(*i*) any sum which under the provisions of sub-clause (*vii*) of clause (*1*) of section 17 is included in salary,

(*ii*) any income chargeable under the head "Salaries" in respect of which the assessee can make an application for the grant of relief under sub-section (1) of section 89,

(*iii*) the amount referred to in sub-clause (*a*) (*ii*) or sub-clause (*a*) (*iii*) of this clause,

(*iv*) any compensation or other payment referred to in clause (*ii*) of section 28,

(*v*) any income chargeable under the head "Capital gains",

[14][(*vi*) any annuity due, or commuted value of any annuity paid, under the provisions of section 280D,]

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[14] Inserted by s 13, Direct Taxes (Amendment) Act, 1964, w e f 6-10-1964

[15][(*vii*) any income arising outside India in a country the laws of which prohibit or restrict the remittance of money to India,]

(*2*) "advance deposit" means the annuity deposit required to be made in advance in accordance with the provisions of sections 280E to 280-I,

(*3*) "advance tax" shall have the same meaning as in section 207,

(*4*) "annuity" means any annual instalment of principal and interest thereon payable by the Central Government under the provisions of section 280D,

(*5*) "annuity deposit" means a deposit of money required to be made under the provisions of this Chapter,

(*6*) "depositor" means a person to whom the provisions of this Chapter apply

280C. Requirement as to annuity deposit.—(1) [16][Where, in relation to any assessment year, not being an assessment year commencing on or after the 1st day of April, 1969, any Central Act enacts] that any person to whom the provisions of this Chapter apply shall make for any assessment year an annuity deposit with the Central Government at any rate or rates, such person shall make such deposit at that rate or those rates in accordance with, and subject to the provisions of, this Chapter in respect of the adjusted total income of the previous year or previous years, as the case may be

[17][(2) In respect of the adjusted total income in relation to which an annuity deposit is to be made under sub-section (1), such deposit shall—

(*i*) in respect of the adjusted total income of the previous year or previous years relevant to the assessment year commencing on the 1st day of April, 1966, or any earlier assessment year, be made in advance in accordance with the provisions of sections 280E to 280-I,

(*ii*) in respect of the adjusted total income of the previous year or previous years relevant to the assessment year commencing on the 1st day of April, 1967, or any subsequent assessment year [18][not being an assessment year commencing on or after the 1st day of April, 1969], be made by such person at any time (in one sum or in instalments of his choice) during the financial year immediately preceding such assessment year at the rate or rates specified in this behalf in the annual Finance Act

Provided that the Income-tax Officer may, in such cases, under such circumstances and subject to such conditions as may be specified in a scheme framed under section 280W, allow a depositor to make a deposit or a further deposit at any time after the expiry of the financial year referred to in clause (*ii*), and any deposit or further deposit so made shall be deemed to be an annuity deposit for the relevant assessment year for the purposes of this Chapter]

R **280D. Repayment.**—Subject to the provisions of this Chapter and any scheme
119A framed thereunder, the Central Government shall repay to the depositor the annuity deposit made or recovered in any year in ten annual equated instalments of principal and interest at such rate as may be notified by the Central Government in the Official Gazette

Provided that nothing in this section shall prevent the payment of any annuity at such commuted value thereof as may be provided in a scheme framed under section

15 Inserted by s 33 and 3rd Sch , F (No 2) Act, 1967, w e f 1-4-1968
16 Substituted for "Where any Central Act enacts" by s 23, F Act, 1968, w e f 1-4-1968
17 Substituted by s 29, F Act, 1966, w e f 1-4-1966
18 Inserted by s 23, F Act, 1968, w e f 1-4-1968

280W, in any case in which the authority empowered to make such payment is satisfied that genuine hardship will be caused unless such payment is made

280E. Computation of advance deposit.—The amount of advance deposit to be made by a depositor in the financial year shall be computed as follows —

(*a*) (*i*) his total income for the latest previous year in respect of which he has been assessed by way of regular assessment shall first be ascertained,

(*ii*) the amount of income of the nature referred to in sub-clause (*b*)(*i*) or sub-clause (*b*)(*ii*) or sub-clause (*b*)(*iii*) or sub-clause (*b*)(*iv*) or sub-clause (*b*)(*v*) [19][or sub-clause (*b*)(*vi*)] of clause (*1*) of section 280B, if any, included in such income shall be deducted therefrom, and on the balance annuity deposit shall be calculated at the rates in force in the financial year,

(*iii*) the amount of annuity deposit calculated in accordance with sub-clause (*ii*) shall, subject to the provisions of clauses (*b*) and (*c*), be the advance deposit to be made,

(*b*) in cases where an estimate of the adjusted total income is sent by the depositor under sub-section (1) or sub-section (2) or sub-section (3) of section 280H, the total income on the basis of which such adjusted total income is so estimated shall, for the purposes of calculation of advance deposit under this section, be substituted for the total income referred to in clause (*a*),

[20][(*c*) in cases where—

(*i*) the total income of the latest previous year (being a year later than the previous year referred to in clause (*a*)) on the basis of which tax has been paid by the depositor under section 140A, or a provisional assessment has been made under section 141, exceeds the total income referred to in clause (*a*), or

(*ii*) the Income-tax Officer makes an amended order referred to in sub-section (3) of section 280F on the basis of the total income on which tax has been paid by the depositor under section 140A, or in respect of which a provisional assessment has been made under section 141,

the total income referred to in clause (*a*) shall be substituted,—

(*1*) in a case falling under sub-clause (*i*), by the total income on the basis of which tax has been paid under section 140A or, as the case may be, the provisional assessment has been made under section 141, whichever relates to the latest previous year and where both relate to the same latest previous year, whichever is higher, and

(*2*) in a case falling under sub-clause (*ii*), by the total income on the basis of which the amended order under sub-section (3) of section 280F is made]

Explanation [21][*1*] —In this section and in sections 280F and 280H, the expression "total income" means the total income computed without making any allowance under section 280-O

[21][*Explanation 2.*—The provisions of this section and of sections 280F to 280-I shall not apply in respect of the financial year commencing on the 1st day of April, 1966, or any subsequent financial year]

19 Inserted by s 14, Direct Taxes (Amendment) Act, 1964, w e f 6-10-1964
20 Substituted, *ibid*, w e f 6-10-1964
21 Inserted by s 32 and 3rd Sch , F Act, 1966, w e f 1-4-1966

280F. Order by Income-tax Officer.—(1) Where a depositor has been previously assessed by way of regular assessment under this Act or under the Indian Income-tax Act, 1922 (XI of 1922), the Income-tax Officer may, on or after the 1st day of April in the financial year, by order in writing, require him to make an advance deposit computed in accordance with the provisions of section 280E.

R 48A (2) The notice of demand issued under section 156 in pursuance of such order shall specify the instalments in which the advance deposit is to be made under section 280G

(3) If, after the making of an order by the Income-tax Officer under this section and before the 15th day of February of the financial year, [22][tax is paid by the depositor under section 140A, or] a regular assessment or a provisional assessment under section 141 of the depositor (or of the registered firm of which he is a partner) is made in respect of a previous year later than that referred to in the order of the Income-tax Officer, the Income-tax Officer may make an amended order requiring such depositor to make in one instalment on the specified date, or in equal instalments on the specified dates, if more than one, falling after the date of the amended order, the advance deposit computed on the basis of the adjusted total income calculated with reference to the total income [23][on which tax has been paid under section 140A or in respect of which the regular assessment or the provisional assessment aforesaid has been made,] as reduced by the deposit, if any, made in accordance with the original order

280G. Instalments of advance deposit.—Subject to the provisions of section 280H, the provisions of section 211 shall, so far as may be, apply in relation to advance deposit to be made by a depositor as they apply in relation to advance tax payable by an assessee with the modification that reference therein to section 210 shall be construed as reference to section 280F

280H. Estimate by depositor.—(1) If a depositor, who is required to make advance deposit by an order under section 280F, estimates at any time before the last instalment is due that his adjusted total income for the period which would be the previous year for the immediately following assessment year, is less than the income in respect of which he is required to make such deposit, and accordingly wishes to make a deposit of an amount less than the amount which he is so required to deposit, he may send to the Income-tax Officer—

(*i*) an estimate of the adjusted total income of the said previous year,

(*ii*) an estimate of the advance deposit to be made by him calculated in the manner laid down in section 280E,

and shall make such deposit as accords with his estimate in equal instalments on such of the dates specified in section 211 as applied to advance deposit by section 280G as have not expired or in one sum if only the last of such dates has not expired.

(2) The depositor may send a revised estimate of the advance deposit to be made by him and adjust any excess or deficiency in respect of any instalment already paid in a subsequent instalment or in subsequent instalments

(3) A depositor who has not previously been assessed by way of regular assessment under this Act, or under the Indian Income-tax Act, 1922 (XI of 1922), shall, before the 1st day of March in each financial year, if his total income of the period which would be the previous year for the immediately following assessment year is likely to exceed the minimum amount in relation to which annuity deposit is required

[22] Inserted by s 15, Direct Taxes (Amendment) Act, 1964, w e f 6-10-1964
[23] Substituted for "determined under the regular assessment or the provisional assessment aforesaid", *ibid*, w e f 6-10-1964

to be made under the provisions of the Finance Act of that year, send to the Income-tax Officer—

(i) an estimate of the adjusted total income of the said previous year,

(ii) an estimate of the advance deposit to be made by him calculated in the manner laid down in section 280E;

and shall make such deposit as accords with his estimate, on such of the dates specified under section 211 as applied to advance deposit by section 280G as have not expired, by instalments which may be revised according to sub-section (2).

(4) Every estimate under this section shall be sent in the prescribed form and verified in the prescribed manner R 48B

280-I. Commission receipts.—Where part of the adjusted total income consists of any income of the nature of commission which is receivable periodically and is not received or adjusted by the payer in the depositor's account before any of the quarterly instalments of advance deposit become due, he may defer the making of advance deposit in respect of that part of his income to the date on which such income would be normally received or adjusted, and, if he does so, he shall communicate to the Income-tax Officer the date to which the making of such deposit is deferred

280J. *—Omitted by s 32 of, and the Third Schedule to, the Finance Act, 1966, with effect from 1st April 1967.*

280K. *—Omitted by s 32 of, and the Third Schedule to, the Finance Act, 1966, with effect from 1st April 1967*

280L. Special provisions for the assessment year 1964-65.—(1) If the total income of a depositor for the previous year relevant to the assessment year commencing on the 1st day of April, 1964 (such total income being computed without making any allowance under section 280-O), exceeds fifteen thousand rupees and he does not furnish a return under section 139 before the 1st day of March, 1965, and no regular assessment under section 144 is made before the said 1st day of March, he shall send to the Income-tax Officer—

(i) an estimate of the adjusted total income of the said previous year,

(ii) an estimate of annuity deposit to be made by him calculated in the manner laid down in section 280E,

and shall make such deposit as accords with his estimate on or before the 31st day of March, 1965

(2) An estimate under this section shall be sent in the prescribed form and verified in the prescribed manner R 48C

280M. Recomputation of annuity deposit and adjustment of excess or deficiency.—(1) Where as a result of an order of reassessment or recomputation under section 147 or as a result of an order under section 154 or section 155 or section 186 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264, the total income of a depositor is enhanced or reduced, or the status under which he is assessed is altered, or in the case of a firm, registration is granted or cancelled, the Income-tax Officer shall compute or recompute the amount of annuity deposit to be made by such depositor

[24][(2) Where any depositor has deposited any amount for any assessment year which he is not liable to deposit under the provisions of this Chapter or which is in

[24] Substituted by s 14, F (No 2) Act, 1965, w e f 11-9-1965, and further substituted by s 32 and 3rd Sch , F Act, 1966, w e f 1-4-1967

excess of the amount required to be deposited under the said provisions for that year, then, the entire amount or excess amount, as the case may be, may be refunded, adjusted or otherwise dealt with in such manner and having regard to such factors as may be specified in a scheme framed under section 280W]

280N. Refund of annuity deposit made by a firm assessed under clause (b) of section 183.—Where any unregistered firm is assessed under clause (*b*) of section 183 for any assessment year, such firm shall not be liable to make an annuity deposit for that assessment year and annuity deposit made by it for that assessment year, if any, shall be [25][refunded, adjusted or otherwise dealt with in such manner and having regard to such factors as may be specified] in a scheme framed under section 280W.

[1][**280-O. Annuity deposit allowed as deduction in computing total income.**—(1) Notwithstanding anything to the contrary contained in the provisions of this Act relating to the computation of income chargeable under any head of income, the annuity deposit required to be made under this Chapter shall, subject to the provisions of sub-section (2), be allowed as a deduction in computing the total income assessable for the assessment year in respect of which the annuity deposit is required to be made:

Provided that where in relation to the assessment year commencing on the 1st day of April, 1967, or any subsequent assessment year [2][(not being an assessment year commencing on or after the 1st day of April, 1969)], no annuity deposit has been made during the financial year immediately preceding such assessment year (or such further period as may be allowed by the Income-tax Officer under the proviso to clause (*ii*) of sub-section (2) of section 280C), or the amount of annuity deposit made during the financial year or further period aforesaid falls short of the annuity deposit required to be made under this Chapter, the amount to be allowed as a deduction under this sub-section shall be nil or, as the case may be, limited to the amount of the deposit so made, and the provisions of this section shall have effect as if references therein to the annuity deposit required to be made were references to the amount of annuity deposit actually so made

(2) If the adjusted total income of the depositor includes any income chargeable under the head "Salaries", the allowance under sub-section (1) shall be made in computing the income under that head, and if there is no income chargeable under that head or the annuity deposit required to be made exceeds such income, the whole or the balance of the annuity deposit required to be made shall be allowed as a deduction in computing earned income chargeable under any other head, and if there is no earned income chargeable under any other head or the whole or the balance of the annuity deposit required to be made exceeds such earned income, the whole or the balance of the annuity deposit required to be made shall be allowed as a deduction in computing any other income under any head.

Explanation—In this sub-section, the expression "earned income" has the meaning assigned to it in the Finance Act of the relevant year

280P. Annuity deposit deductible in computing income under the head "Salaries" for purposes of section 192.—Any person responsible for paying any income chargeable under the head "Salaries" to a resident may, at the time of payment, deduct income-tax under section 192 as if the estimated income referred to in sub-section (1) of that section had been reduced by the amount of annuity deposit, if any, required to be made by the assessee in respect of such income, whether such annuity deposit has or has not been made

[25] Substituted for "adjusted or otherwise dealt with in such manner as may be provided" by s 15, F (No 2) Act, 1965, w e f 11-9-1965

[1] Substituted by s 30, F Act, 1966, w e f 1-4-1966

[2] Inserted by s 24, F Act, 1968, w e f 1-4-1968

Provided that nothing contained in this section shall apply in the case of a person whose estimated income aforesaid does not exceed twenty-five thousand rupees unless such person has, not later than the 31st day of December of the financial year, made a declaration, in writing, before the person responsible for paying the income chargeable under the head "Salaries", of his intention to make the annuity deposit under the provisions of this Chapter and specifying the amount which he so intends to deposit, and where such declaration has been made, the provisions of this section shall apply as if the reference therein to the amount of annuity deposit required to be made were a reference to the amount specified in such declaration]

[3][280Q. **Rounding off.**—The amount of any deposit to be made under this Chapter shall be rounded off to the nearest multiple of ten rupees and for this purpose any part of a rupee consisting of *paise* shall be ignored and thereafter if such amount is not a multiple of ten, then, if the last figure in that amount is five or more, the amount shall be increased to the next higher amount which is a multiple of ten and if the last figure is less than five, the amount shall be reduced to the next lower amount which is a multiple of ten]

280R. —*Omitted by s 32 of, and the Third Schedule to, the Finance Act, 1966, with effect from 1st April 1967*

280S. Other interest and penalty provisions of the Act not to apply.—Notwithstanding anything to the contrary contained in this Act, the provisions of this Act, other than those contained in this Chapter or any scheme framed thereunder, relating to interest payable by the Central Government on refunds and interest payable by the assessee in default or those relating to imposition of penalty shall not apply in relation to any sum due under this Chapter

280T. —*Omitted by s 32 of, and the Third Schedule to, the Finance Act, 1966, with effect from 1st April 1967.*

280U. Special provisions for authors, playwrights, artists, musicians and actors.—Any individual, being an author, playwright, artist, musician or actor, may, in addition to the amount of annuity deposit required to be made by him in respect of any assessment year, make a further deposit of an amount not exceeding twenty-five per cent of [4][the income from such profession included in his total income] assessable for that assessment year, and if he does so, the further deposit made by him shall, for the purposes of this Chapter, be included in the annuity deposit required to be made by him

280V. Special provisions relating to gratuity.—Where the total income of a depositor assessable for any assessment year includes any gratuity chargeable under the head "Salaries", he may, in addition to the amount of annuity deposit required to be made by him in respect of that assessment year, make a further deposit of an amount not exceeding fifty per cent. of the amount of such gratuity, and if he does so, the further deposit made by him, shall, for the purposes of this Chapter, be included in the annuity deposit required to be made by him

280W. Annuity Deposit Scheme.—(1) The Central Government shall, by notification in the Official Gazette, frame one or more scheme or schemes to be called Annuity Deposit Scheme or Schemes in relation to deposits under this Chapter

(2) A scheme under sub-section (1) may provide for—

(*a*) the manner in which the annuity deposits shall be made,

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[3] Substituted by s 16, Direct Taxes (Amendment) Act, 1964, w. e f 1-4-1964, and further substituted by s. 32 and 3rd Sch , F Act, 1966, w e f 1-4-1966

[4] Substituted for "his adjusted total income" by s 17, Direct Taxes (Amendment) Act, 1964, w e. f 1-4-1964

[5][(*aa*) the cases in which, the circumstances under which and the conditions subject to which, the Income-tax Officer may, under the proviso to clause (*ii*) of sub-section (2) of section 280C, allow a depositor to make a deposit or a further deposit after the expiry of the financial year immediately preceding the assessment year,]

(*b*) the manner in which, and intervals at which, annuities shall be paid, [6][and the manner in which the amount of annuity deposit which is not required to be deposited under the provisions of this Chapter or the excess or deficiency of annuity deposit, as the case may be, may be refunded, adjusted or otherwise dealt with and the factors that may be taken into account in this connection],

(*c*) the authority or authorities by or through whom such deposits may be collected or by whom annuities may be issued,

(*d*) the documents to be issued to persons by whom deposits have been made as evidence of such deposits,

(*e*) the accounts to be maintained with respect to such deposits and annuities and the officers by whom such accounts shall be maintained,

(*f*) the nomination of any person to receive the annuity or any other sum due under this Chapter to any depositor in the event of his death and the cancellation or change of such nomination,

(*g*) the issue of duplicate of any document issued as evidence of any such deposit in the event of loss or destruction of the original and the fee on the payment of which such duplicate may be issued, and

(*h*) any other matter which may be necessary or proper for the effective implementation of the scheme

(3) The Central Government may, by notification in the Official Gazette, add to, amend, vary or rescind any scheme framed under this Chapter

(4) Any scheme framed under this Chapter shall be laid, as soon as may be, after it is framed before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and, if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in any provision of the scheme or both Houses agree that any provision in the scheme should not be made, that provision of the scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that provision

[7][**280X. Liability to pay additional income-tax in certain cases.**—(1) Where in relation to the assessment year commencing on the 1st day of April, 1967, or any subsequent assessment year [8][(not being an assessment year commencing on or after the 1st day of April, 1969)], a depositor does not make any annuity deposit during the financial year immediately preceding such assessment year or such further period as may be allowed by the Income-tax Officer under the proviso to clause (*ii*) of sub-section (2) of section 280C, or the amount of annuity deposit made by him during the financial year or further period aforesaid falls short of the annuity deposit required to be made (which shortfall is hereafter, in this section, referred to as deficiency), he

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[5] Inserted by s 32 and 3rd Sch , F Act, 1966, w e f 1-4-1966
[6] Substituted for "and the manner in which the excess or deficiency of annuity deposit may be adjusted or otherwise dealt with" by s 16, F (No 2) Act, 1965, w e f 11-9-1965
[7] Substituted by s 31, F Act, 1966, w e f 1-4-1967
[8] Inserted by s 25, F Act, 1968, w e f 1-4-1968

shall, in addition to the income-tax payable by him for that assessment year, be liable to a further amount of income-tax calculated in the manner specified in sub-section (2)

Provided that nothing contained in this section shall apply in a case where—

(*a*) such depositor is more than [9][sixty] years of age on the last day of the previous year relevant to the assessment year, or

(*b*) [10] * * * * *

[11][(*c*) the annuity deposit required to be made does not exceed one hundred rupees, or

(*d*) the deficiency does not exceed an amount equal to ten per cent of the annuity deposit required to be made or one hundred rupees, whichever is higher]

(2) The further amount of income-tax referred to in sub-section (1) shall be—

(*i*) in a case where the depositor does not make any annuity deposit, a sum equal to fifty per cent of the amount by which the amount of annuity deposit required to be made in respect of that assessment year exceeds the difference between—

(*a*) the tax payable by him on his total income, and

(*b*) the tax that would have been payable had his total income been reduced by the amount of annuity deposit required to be made,

(*ii*) in a case where the amount of annuity deposit made by him falls short of the annuity deposit required to be made, a sum equal to fifty per cent of the amount by which the amount of the deficiency exceeds the difference between—

(*a*) the tax payable by him on his total income, and

(*b*) the tax that would have been payable had his total income been reduced by the amount of the deficiency

[12][*Explanation* —(*i*) In this section, the expression "annuity deposit required to be made" shall mean the amount of annuity deposit calculated on the adjusted total income of the depositor at the rate or rates specified in the Finance Act of the relevant year, but where the amount so calculated exceeds the amount computed in the manner specified in clause (*ii*) of this *Explanation* (the amount so computed being hereinafter referred to as the specified amount), then, the annuity deposit required to be made shall mean the specified amount

(*ii*) The specified amount referred to in clause (*i*) of this *Explanation* shall be—

(*a*) in a case where the total income (as computed without making any allowance under section 280-O) exceeds fifteen thousand rupees but does not exceed twenty thousand rupees, an amount equal to one per cent of the adjusted total income of the depositor,

(*b*) in a case where the total income (computed in the manner aforesaid) exceeds twenty thousand rupees but does not exceed twenty-five thousand rupees, an amount equal to—

(*1*) the aggregate of the sum calculated at one per cent on so much of the adjusted total income as does not exceed twenty thousand rupees and the

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[9] Substituted for "seventy" by s 33 and 3rd Sch , F (No 2) Act, 1967, w e f 1-4-1968
[10] Omitted by s 4, Taxation Laws (Amendment) Act, 1967, w e f 1-10-1967
[11] Inserted by s 33 and 3rd Sch , F (No 2) Act, 1967, w e f 1-4-1968
[12] Substituted by s 4, Taxation Laws (Amendment) Act, 1967, w e f 1-10-1967

sum by which the total income (computed in the manner aforesaid) exceeds twenty thousand rupees, or

(2) one and a half per cent of the adjusted total income of the depositor,

whichever is less,

(c) in a case where the total income (computed in the manner aforesaid) exceeds twenty-five thousand rupees, an amount equal to the aggregate of the sum calculated at one and a half per cent on so much of the adjusted total income as does not exceed twenty-five thousand rupees and the sum by which the total income (computed in the manner aforesaid) exceeds twenty-five thousand rupees]]]

[13][CHAPTER XXII-B

TAX CREDIT CERTIFICATES

280Y. Definitions.—In this Chapter,—

(*a*) "eligible issue of capital" means an issue of ordinary shares specified as such in the scheme,

(*b*) "public company" means a public company as defined in section 3 of the Companies Act, 1956 (I of 1956),

(*c*) "scheme" means a scheme made under this Chapter,

(*d*) "urban area" means any area which the Central Government may, having regard to the population, concentration of industries, need for proper planning of the area and other relevant factors, by general or special order, declare to be an urban area for the purposes of this Chapter

280Z. Tax credit certificates to certain equity shareholders.—(1) An individual shall be granted a tax credit certificate if he by himself or some other person on his behalf has subscribed to, and made payments in respect of, any eligible issue of capital

(2) A Hindu undivided family shall also be granted a tax credit certificate if any person has subscribed to, and made payments in respect of, any eligible issue of capital on behalf of that Hindu undivided family

(3) A tax credit certificate granted under the provisions of this section shall be for the amount or the aggregate of the amounts computed as hereunder with reference to the capital so subscribed and paid

(*i*) On the first Rs 15,000 of the amount paid in the financial year	at the rate of 5 per cent ,
(*ii*) On the next Rs 10,000 of the amount paid in the financial year	at the rate of 3 per cent.,
(*iii*) On the next Rs. 10,000 of the amount paid in the financial year	at the rate of 2 per cent ,
(*iv*) On the balance of the amount paid in the financial year	nil

[13] Inserted by s 62, F Act, 1965, w e f 1-4-1965

Explanation —For the purposes of this section—

(*i*) "subscribed" includes acquisition of the shares forming part of an eligible issue of capital from a person who is specified as an underwriter in pursuance of clause 11 of Part I of Schedule II to the Companies Act, 1956 (I of 1956) (hereinafter in this section referred to as the underwriter),

(*ii*) a payment shall be treated as having been made to the extent to which and on the date on which the amount of the said payment has been credited to the share capital account of the company

(4) A tax credit certificate for the amount specified in sub-section (3) shall be granted to an individual or Hindu undivided family—

(*a*) where payment by way of subscription has been made to the company, in respect of the financial year in which payment has been made and each of the three financial years following that year, and

(*b*) where the acquisition has been made from the underwriter, in respect of the financial year in which the capital was so acquired and each one, if any, of the following financial years not falling beyond the third financial year from the end of the financial year in which the payment by way of subscription has been made to the company by the underwriter

Provided that, in either case, the capital is held by or on behalf of the individual or on behalf of the Hindu undivided family, as the case may be, at the end of the relevant financial year

Provided further that where any part of the capital in respect of which a tax credit certificate had been granted in a financial year (hereinafter referred to as the earlier financial year) is sold, transferred or otherwise disposed of in a subsequent financial year, the tax credit certificate to be granted with reference to the remaining capital in respect of the said subsequent financial year or any financial year following that year shall be for such amount as bears to the amount for which the tax credit certificate was granted in the earlier financial year the same proportion as the amount of the remaining capital as on the 31st day of March of the subsequent financial year bears to the total amount of the capital with reference to which the tax credit certificate was granted in the earlier financial year

(5) If any individual by himself or on behalf of any other individual or on behalf of any Hindu undivided family has acquired any shares forming part of an eligible issue of capital from the underwriter, he shall not be entitled to a tax credit certificate under this section, unless his name is entered as a shareholder in respect of such shares in the register of shareholders of the company

[14][(6) The amount shown on a tax credit certificate granted to an individual or Hindu undivided family shall, on the certificate being produced before the Income-tax Officer, be adjusted against any liability of such individual or Hindu undivided family under the Indian Income-tax Act, 1922 (XI of 1922), or this Act, existing on the date on which the certificate was produced before the Income-tax Officer and where the amount of such certificate exceeds such liability, or where there is no such liability, the excess or the whole of such amount, as the case may be, shall, notwithstanding anything contained in Chapter XIX, be deemed, on the said date, to be refund due to such individual or Hindu undivided family, as the case may be, under that Chapter and the provisions of this Act shall apply accordingly]

(7) The Central Government may specify in a scheme any issue of ordinary shares by a public company as eligible issue of capital

[14] Substituted by s 26, F Act, 1968, w e f 1-4-1968

(8) In specifying any issue of ordinary shares as eligible issue of capital, the Central Government shall have regard to the following factors, namely —

(*a*) the total amount of the capital issued,

(*b*) the terms and conditions subject to which the capital is issued,

(*c*) the trade or business in which the company concerned is engaged,

(*d*) the purposes for which the issue is being made,

(*e*) any other relevant factor

280ZA. Tax credit certificates for shifting of industrial undertaking from urban area.—(1) If any [15]* * company owning an industrial undertaking situate in an urban area shifts, with the prior approval of the Board, such undertaking to any area (not being the area in which such undertaking is situate), it shall be granted a tax credit certificate

(2) The tax credit certificate to be granted under sub-section (1) shall be for an amount computed in the following manner with reference to the amount of the tax payable by the company on its income chargeable under the head "Capital gains" arising from the transfer of capital assets being buildings or lands or any rights in buildings or lands used for the purposes of the business of the said undertaking in the urban area, effected in the course of or in consequence of the shifting of such industrial undertaking, namely —

(*a*) the amount of expenditure incurred by the company in—

(*i*) acquiring lands or constructing buildings for the purposes of the business of the company in the area to which the undertaking is shifted, and

(*ii*) shifting its machinery or plant and other effects and transferring its establishment to such area,

within a period of three years, from the date of the approval referred to in sub-section (1), or such further period as the Board may allow, shall first be ascertained,

(*b*) the amount of the tax credit certificate shall bear to the amount of tax payable by the company on its income chargeable under the head "Capital gains" as aforesaid, the same proportion as the amount of expenditure ascertained under clause (*a*) bears to the amount of the said income

Provided that the amount of the tax credit certificate shall in no case exceed the amount of the tax aforesaid

[16][(3) The amount shown on a tax credit certificate granted to a [17]* * company under this section shall, on the certificate being produced before the Income-tax Officer, be adjusted against any liability of the company under the Indian Income-tax Act, 1922 (XI of 1922), or this Act, existing on the date on which the certificate was produced before the Income-tax Officer and where the amount of such certificate exceeds such liability, or where there is no such liability, the excess or the whole of such amount, as the case may be, shall, notwithstanding anything contained in Chapter XIX, be deemed, on the said date, to be refund due to [18][the] company under that Chapter and the provisions of this Act shall apply accordingly]

(4) Where a capital asset, being building or land, or any right in building or land, acquired or, as the case may be, constructed in the area to which the undertaking of

15 "Public" omitted by s 54, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971
16 Substituted by s 27, F Act, 1968, w e f 1-4-1968
17 "Public" omitted by s 54, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971
18 Substituted for "such", *ibid*, w e f 1-4-1971

the company is shifted, is transferred by the company within a period of five years from the date of acquisition or, as the case may be, the date of completion of construction to any person other than the Government, a local authority, a corporation established by a Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (I of 1956), an amount equal to one-half of the amount for which a tax credit certificate has been granted to the company under sub-section (1) shall be deemed to be tax due from the company on the thirtieth day following the date of transfer under a notice of demand issued under section 156, and all the provisions of this Act shall apply accordingly

Explanation —Any land or building used for the residence of persons employed in the business of the company or for the use of such persons as a hospital, creche, school, canteen, library, recreational centre, shelter, rest-room or lunch-room shall, for the purposes of this section, be deemed to be land or building used for the purposes of the business of the company

280ZB. Tax credit certificate to certain manufacturing companies in certain cases.—(1) Where any company engaged in the manufacture or production of any of the articles mentioned in the First Schedule to the Industries (Development and Regulation) Act, 1951 (LXV of 1951), is, in respect of its profits and gains attributable to such manufacture or production,—

(*i*) liable to pay any tax for the assessment year commencing on the 1st day of April, 1965 (hereinafter referred to as the base year), and for any one or more of the five assessment years next following that year, or

(*ii*) not liable to pay any tax for the base year but becomes so liable for any succeeding year (hereinafter referred to as the succeeding base year) and also for any one or more of the assessment years following that year, not being an assessment year commencing on the 1st day of April, 1971, or any subsequent assessment year,

and the tax for any such succeeding year exceeds—

(*a*) in the case referred to in clause (*i*), the tax payable for the base year,

(*b*) in the case referred to in clause (*ii*), the tax payable for the succeeding base year,

then the company shall be granted a tax credit certificate for an amount equal to twenty per cent of such excess

Provided that the amount of the tax credit certificate shall not for any assessment year exceed ten per cent of such tax payable by the company for that year

(2) [19][The amount shown on a tax credit certificate granted to any company under this section shall, on the certificate being produced before the Income-tax Officer, be adjusted against any liability of the company under the Indian Income-tax Act, 1922 (XI of 1922), or this Act, existing on the date on which the certificate was produced before the Income-tax Officer and where the amount of such certificate exceeds such liability, or where there is no such liability, the excess or the whole of such amount, as the case may be, shall, notwithstanding anything contained in Chapter XIX, be deemed, on the said date, to be refund due to such company under that Chapter and the provisions of this Act shall apply accordingly]

Provided that the adjustment or refund, as the case may be, under this sub-section shall be only for such amount, not exceeding the amount of the certificate, as is used within such period as may be specified in the scheme—

(*i*) for repayment of loans taken by the company from any of the financial institutions notified in this behalf by the Central Government, or

[19] Substituted by s 28, F Act, 1968, w e f 1-4-1968

(ii) for redemption of its debentures, or

(iii) for the acquisition of any capital asset in India, including the construction of any building, for the purposes of the business of the company

Explanation 1—In this section, "tax" means income-tax payable under this Act and surtax, if any, payable under the Companies (Profits) Surtax Act, 1964 (VII of 1964)

Explanation 2—The amount of income-tax in respect of the profits or gains attributable to the manufacture or production of the articles referred to in sub-section (1) shall be an amount bearing to the total amount of income-tax payable on the total income (such income-tax being computed in the manner specified hereunder) the same proportion as the amount of such profits or gains bears to the total income [20][The amount of income-tax payable by the company for any assessment year shall be computed after making allowance for any relief, rebate or deduction in respect of income-tax to which the company is entitled under the provisions of this Act or the annual Finance Act and after deducting from such amount of income-tax—

(a) the amount of additional income-tax, if any, payable by the company under the provisions of section 104, and

(b) (i) in respect of the assessment year commencing on the 1st day of April, 1965, the amount, if any, by which the rebate of income-tax admissible to the company under the provisions of the Finance Act, 1965 (X of 1965), is, under the provisions of the said Act, reduced with reference to the face value of any bonus shares or the amount of any bonus issued by the company to its shareholders during the previous year or any previous year prior to that year or with reference to any amount of dividends declared or distributed by it during the previous year or any previous year prior to that year, or

(ii) in respect of the assessment year commencing on the 1st day of April, 1966, or any subsequent assessment year, the amount of income-tax, if any, payable by the company under the provisions of the annual Finance Act with reference to the relevant amount of distributions of dividends by it]

Explanation 3—The amount of surtax in respect of the chargeable profits attributable to the manufacture or production of the articles referred to in sub-section (1) shall be an amount bearing to the total amount of surtax payable under the Companies (Profits) Surtax Act, 1964 (VII of 1964), the same proportion as the amount of such chargeable profits bears to the whole of the chargeable profits

280ZC. Tax credit certificate in relation to exports.—(1) Subject to the provisions of this section, a person who exports any goods or merchandise out of India after the 28th day of February, 1965, and receives the sale proceeds thereof in India in accordance with the Foreign Exchange Regulation Act, 1947 (VII of 1947), and the rules made thereunder, shall be granted a tax credit certificate for an amount calculated at a rate not exceeding fifteen per cent on the amount of such sale proceeds

[21][*Explanation 1*—For the removal of doubts it is hereby declared that the expression "sale proceeds" in this sub-section does not include freight or insurance attributable to the transport of the goods or merchandise beyond the customs station as defined in the Customs Act, 1962 (LII of 1962)

Explanation 2—For the purposes of this sub-section, a person who exports any goods or merchandise in respect of which the declaration in pursuance of rule 3 of the

[20] Substituted by s 33, F Act, 1966, w e f 1-4-1966
[21] Inserted by s 17, F (No 2) Act, 1965, w e f 1-4-1965

Foreign Exchange Regulation Rules, 1952, is required to be in Form E P , or Form E P I in the First Schedule to the said rules, shall not in respect of such goods or merchandise be deemed to have received the sale proceeds in India in accordance with the Foreign Exchange Regulation Act, 1947 (VII of 1947), and the rules made thereunder unless he receives the same in India through an authorised dealer as defined in the said Act]

(2) The goods or merchandise in respect of which a tax credit certificate shall be granted under sub-section (1) (including the destination of their export) and the rate at which the amount of such certificate shall be calculated shall be such as may be specified in the scheme

Provided that different rates may be specified in respect of different goods or merchandise

(3) In specifying the goods or merchandise (including the destination of their export) and the rates, the Central Government shall have regard to the following factors, namely —

(*a*) the cost of manufacture or production of such goods or merchandise and prices of similar goods in the foreign markets,

(*b*) the need to develop foreign markets for such goods or merchandise,

(*c*) the need to earn foreign exchange,

(*d*) any other relevant factor

[22][(4) The amount shown on a tax credit certificate granted to any person under this section shall, on the certificate being produced before the Income-tax Officer, be adjusted against any liability of that person under the Indian Income-tax Act, 1922 (XI of 1922), or this Act, existing on the date on which the certificate was produced before the Income-tax Officer and where the amount of such certificate exceeds such liability, or where there is no such liability, the excess or the whole of such amount, as the case may be, shall, notwithstanding anything contained in Chapter XIX, be deemed, on the said date, to be refund due to such person under that Chapter and the provisions of this Act shall apply accordingly]

280ZD. Tax credit certificates in relation to increased production of certain goods.—(1) Subject to the provisions of this section, a person, who during any financial year commencing on the 1st day of April, 1965, or any subsequent financial year (not being a year commencing on the 1st day of April, 1970, or any financial year thereafter) manufactures or produces any goods, shall be granted a tax credit certificate for an amount calculated at a rate not exceeding twenty-five per cent of the amount of the duty of excise payable by him on that quantum of the goods cleared by him during the relevant financial year which exceeds the quantum of the goods cleared by him during the base year, whether the clearance in either case is for home consumption or export

(2) The goods in respect of which a tax credit certificate shall be granted under sub-section (1) and the rate at which the amount of such certificate shall be calculated shall be such as may be specified in the scheme

Provided that different rates may be specified in respect of different goods

(3) In specifying the goods and the rates under sub-section (1), the Central Government shall have regard to the following factors, namely —

(*a*) the need for stimulating industrial output,

[22] Substituted by s 17, F (No 2) Act, 1965, w e f 11-9-1965

(*b*) the need for financial assistance to industrial undertakings engaged in the manufacture or production of such goods,

(*c*) any other relevant factor

(4) Where any undertaking begins, after the 1st day of April in the base year, to manufacture or produce any goods in respect of which a tax credit certificate may be granted under sub-section (1), the quantum of goods cleared in that year shall, for the purposes of that sub-section, be determined in such manner as may be provided in the scheme

(5) [23][The amount shown on a tax credit certificate granted to any person under this section shall, on the certificate being produced before the Income-tax Officer, be adjusted against any liability of that person under the Indian Income-tax Act, 1922 (XI of 1922), or this Act, existing on the date on which the certificate was produced before the Income-tax Officer and where the amount of such certificate exceeds such liability, or where there is no such liability, the excess or the whole of such amount, as the case may be, shall, notwithstanding anything contained in Chapter XIX, be deemed, on the said date, to be refund due to such person under that Chapter and the provisions of this Act shall apply accordingly.]

Provided that the adjustment or refund, as the case may be, under this sub-section shall be only for such amount, not exceeding the amount of the certificate, as is used within such period as may be specified in the scheme—

(*i*) for repayment of loans taken by the person from any of the financial institutions notified in this behalf by the Central Government, or

(*ii*) for the acquisition of any capital asset in India, including the construction of any building, for the purposes of his business, or

(*iii*) where the person is a company, also for redemption of its debentures

(6) In this section—

(*a*) "base year", in relation to an existing undertaking which manufactures or produces the goods referred to in sub-section (1), means the financial year commencing on the 1st day of April, 1964, and in relation to any other undertaking, the financial year in which such undertaking begins to manufacture or produce such goods,

(*b*) "duty of excise" means the duty of excise leviable under the Central Excises and Salt Act, 1944 (I of 1944)

280ZE. Tax credit certificate scheme.—(1) The Central Government shall, by notification in the Official Gazette, frame one or more scheme or schemes to be called tax credit certificate scheme or schemes in relation to tax credit certificates to be granted under this Chapter

(2) A scheme framed under sub-section (1) may provide for—

(*a*) the form and manner in which, and the authority to which, applications for the grant of tax credit certificates shall be made,

(*b*) the form in which, and the intervals at which, and the authority by which, such certificates shall be issued,

(*c*) the verification of any information or particulars furnished, or contained in any application made, by or on behalf of any person entitled to tax credit certificates,

23 Substituted by s 29, F Act, 1968, w e f 1-4-1968

(*d*) the determination of the rights and obligations of a person to whom such certificate has been granted and the circumstances in which any right in or title to the said certificate may be transferred to or devolve on any other person by succession or otherwise,

(*e*) the determination of the rights and obligations of persons who jointly subscribe to an eligible issue of capital,

(*f*) the determination of the rights and obligations of persons who subscribe to an eligible issue of capital, on behalf, or for the benefit, of any other person,

(*g*) the appointment of any officer of Government or of the Reserve Bank of India to exercise any rights or perform any duties in connection with the grant of the said certificates;

(*h*) the goods or merchandise and the rate or rates for the purposes of section 280ZC and section 280ZD and the destination of the export of such goods or merchandise for the purposes of section 280ZC,

(*i*) any other matter which may be necessary or proper for the effective implementation of the provisions of this Chapter or the scheme

(3) The Central Government may, by notification in the Official Gazette, add to, amend, vary or rescind any scheme made under this section

(4) Any scheme made under this section shall be laid, as soon as may be, after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in any provision of the scheme or both Houses agree that any provision in the scheme should not be made, that provision of the scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that provision]

CHAPTER XXIII

MISCELLANEOUS

[24][**281. Certain transfers to be void.**—(1) Where, during the pendency of any proceeding under this Act or after the completion thereof, but before the service of notice under rule 2 of the Second Schedule, any assessee creates a charge on, or parts with the possession (by way of sale, mortgage, gift, exchange or any other mode of transfer whatsoever) of, any of his assets in favour of any other person, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the assessee as a result of the completion of the said proceeding or otherwise

Provided that such charge or transfer shall not be void if it is made—

(*i*) for adequate consideration and without notice of the pendency of such proceeding or, as the case may be, without notice of such tax or other sum payable by the assessee, or

[24] Substituted by s 73, Taxation Laws (Amendment) Act, 1975, w e f 1-10-1975.

(ii) with the previous permission of the Income-tax Officer

(2) This section applies to cases where the amount of tax or other sum payable or likely to be payable exceeds five thousand rupees and the assets charged or transferred exceed ten thousand rupees in value.

Explanation.—In this section, "assets" means land, building, machinery, plant, shares, securities and fixed deposits in banks, to the extent to which any of the assets aforesaid does not form part of the stock-in-trade of the business of the assessee.]

[25][**281A. Effect of failure to furnish information in respect of properties held benami.**—(1) No suit to enforce any right in respect of any property held *benami*, whether against the person in whose name the property is held or against any other person, shall be instituted in any court by or on behalf of a person (hereafter in this section referred to as the claimant) claiming to be the real owner of such property unless,—

(a) the income, if any, from such property has been disclosed in any return of income furnished by the claimant under this Act; or

(b) such property has been disclosed in any return of net wealth furnished by the claimant under the Wealth-tax Act, 1957 (XXVII of 1957), or

R 122 (c) notice in the prescribed form and containing the prescribed particulars in respect of the property has been given by the claimant to the Income-tax Officer

Rr 123, 124 (2) The Income-tax Officer shall, on an application made by any person in the prescribed manner and on payment of the prescribed fees, issue for the purposes of a suit referred to in sub-section (1), relevant extracts from the return furnished by such person under this Act or the Wealth-tax Act, 1957 (XXVII of 1957), or a certified copy of any notice given by such person under clause (c) of sub-section (1), within fourteen days from the date of receipt of the application therefor

(3) This section shall not apply to any suit of a value not exceeding two thousand rupees which is tried by,—

(a) a Court of Small Causes constituted under the Presidency Small Cause Courts Act, 1882 (XV of 1882), or the Provincial Small Cause Courts Act, 1887 (IX of 1887), or

(b) a court invested with the jurisdiction of a Court of Small Causes, by or under any enactment for the time being in force, in the exercise of such jurisdiction]

[1][**281B. Provisional attachment to protect revenue in certain cases.**—(1) Where, during the pendency of any proceeding for the assessment of any income or for the assessment or reassessment of any income which has escaped assessment, the Income-tax Officer is of the opinion that for the purpose of protecting the interests of the revenue it is necessary so to do, he may, with the previous approval of the Commissioner, by order in writing, attach provisionally any property belonging to the assessee in the manner provided in the Second Schedule

(2) Every such provisional attachment shall cease to have effect after the expiry of a period of six months from the date of the order made under sub-section (1)

Provided that the Commissioner may, for reasons to be recorded in writing, extend the aforesaid period by such further period or periods as he thinks fit, so, however, that the total period of extension shall not in any case exceed two years.]

[25] Inserted by s 5, Taxation Laws (Amendment) Act, 1972, w e f. 15-11-1972
[1] Inserted by s 74, Taxation Laws (Amendment) Act, 1975, w. e f 1-10-1975

282. Service of notice generally.—(1) A notice or requisition under this Act may be served on the person therein named either by post or as if it were a summons issued by a court under the Code of Civil Procedure, 1908 (V of 1908)

(2) Any such notice or requisition may be addressed—

(*a*) in the case of a firm or a Hindu undivided family, to any member of the firm or to the manager or any adult member of the family;

(*b*) in the case of a local authority or company, to the principal officer thereof,

(*c*) in the case of any other association or body of individuals, to the principal officer or any member thereof,

(*d*) in the case of any other person (not being an individual), to the person who manages or controls his affairs

283. Service of notice when family is disrupted or firm, etc., is dissolved.—(1) After a finding of total partition has been recorded by the Income-tax Officer under section 171 in respect of any Hindu family, notices under this Act in respect of the income of the Hindu family shall be served on the person who was the last manager of the Hindu family, or, if such person is dead, then on all adults who were members of the Hindu family immediately before the partition

(2) Where a firm or other association of persons is dissolved, notices under this Act in respect of the income of the firm or association may be served on any person who was a partner (not being a minor) or member of the association, as the case may be, immediately before its dissolution

284. Service of notice in the case of discontinued business.—Where an assessment is to be made under section 176, the Income-tax Officer may serve on the person whose income is to be assessed, or, in the case of a firm or an association of persons, on any person who was a member of such firm or association at the time of its discontinuance or, in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 139, and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that section

285. Information by persons responsible for paying interest.—The person respon- R
sible for paying any interest, not being "Interest on securities", shall, on or before 116
the fifteenth day of June in each year, furnish to the Income-tax Officer having jurisdiction to assess him, a return in the prescribed form and verified in the prescribed manner of the names and addresses of all persons to whom during the previous financial year he has paid interest or aggregate interest exceeding such amount, not being less than four hundred rupees, as may be prescribed in this behalf, together with the amount paid to each such person

[2][**285A. *Information by contractors in certain cases.***—(1) Where any person R
(hereinafter referred to as the contractor) enters into a contract [3][with another 120
person for carrying out any work or for the supply of goods or services in connection therewith, the value of which work or supply or both exceeds fifty thousand rupees], he shall, within one month of the making of the contract, furnish to the Income-tax Officer having jurisdiction to assess the contractor such particulars relating to the contract and in such form as may be prescribed.

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[2] Inserted by s 18, Direct Taxes (Amendment) Act, 1964, w e f 6-10-1964

[3] Substituted for "for the construction of a building for, or the supply of goods or services in connection therewith to, any other person, the value of which exceeds fifty thousand rupees" by s 75, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976

R 121 (2) Without prejudice to the provisions of any other law for the time being in force, where any contractor contravenes the provisions of sub-section (1), the Commissioner may impose upon him such fine not exceeding fifty rupees as he thinks fit for every day during which the contravention continues, so, however, that the amount of fine so imposed shall not, in the aggregate, exceed twenty-five per cent of the value of the contract

(3) The Commissioner shall, on making an order under this section imposing a fine, forthwith send a copy of the same to the Income-tax Officer.]

[4][**285B. Submission of statements by producers of cinematograph films.**—Any person carrying on the production of a cinematograph film during the whole or any part of any financial year shall, in respect of the period during which such production is carried on by him in such financial year, prepare and deliver or cause to be delivered to the Income-tax Officer, within thirty days from the end of such financial year or within thirty days from the date of the completion of the production of the film, whichever is earlier, a statement in the prescribed form containing particulars of all payments of over five thousand rupees in the aggregate made by him or due from him to each such person as is engaged by him in such production as employee or otherwise]

Rr 27, 117 **286. Information by companies respecting shareholders to whom dividends have been paid** —The principal officer of every company which is an Indian company or a company which has made such arrangements as may be prescribed for the declaration and payment of dividends in India shall, on or before the fifteenth day of June in each year, furnish to the prescribed officer a return in the prescribed form and verified in the prescribed manner of the names and of the addresses, as entered in the register of shareholders maintained by the company, of the shareholders to whom a dividend or aggregate dividends exceeding such amount as may be prescribed in this behalf has or have been distributed during the preceding year and of the amount so distributed to each shareholder

[5][**287. Publication of information respecting assessees in certain cases.**—(1) If the Central Government is of opinion that it is necessary or expedient in the public interest to publish the names of any assessees and any other particulars relating to any proceedings [6][or prosecutions] under this Act in respect of such assessees, it may cause to be published such names and particulars in such manner as it thinks fit.

[7][(2) No publication under this section shall be made in relation to any penalty imposed under this Act until the time for presenting an appeal to the Appellate Assistant Commissioner has expired without an appeal having been presented or the appeal, if presented, has been disposed of]

Explanation —In the case of a firm, company or other association of persons, the names of the partners of the firm, directors, managing agents, secretaries and treasurers, or managers of the company, or the members of the association, as the case may be, may also be published if, in the opinion of the Central Government, the circumstances of the case justify it]

[8][**287A. Appearance by registered valuer in certain matters.**—Any assessee who is entitled or required to attend before any Income-tax authority or the Appellate Tribunal in connection with any matter relating to the valuation of any asset, otherwise

[4] Inserted by s 76, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976
[5] Substituted by s 45, F Act, 1964, w e f 1-4-1964
[6] Inserted by s 77, Taxation Laws (Amendment) Act, 1975, w e f 1-10-1975
[7] Substituted, *ibid*, w e f 1-10-1975
[8] Inserted by s 6, Taxation Laws (Amendment) Act, 1972, w e f 1-1-1973

than when required under section 131 to attend personally for examination on oath or affirmation, may attend by a registered valuer

Explanation—In this section, "registered valuer" has the same meaning as in clause (*oaa*) of section 2 of the Wealth-tax Act, 1957 (XXVII of 1957)]

288. Appearance by authorised representative.—(1) Any assessee who is entitled or required to attend before any Income-tax authority or the Appellate Tribunal in connection with any proceeding under this Act otherwise than when required under section 131 to attend personally for examination on oath or affirmation, may, subject to the other provisions of this section, attend by an authorised representative. Rr 49-66

(2) For the purposes of this section, "authorised representative" means a person authorised by the assessee in writing to appear on his behalf, being—

(*i*) a person related to the assessee in any manner, or a person regularly employed by the assessee, or

(*ii*) any officer of a Scheduled Bank with which the assessee maintains a current account or has other regular dealings, or

(*iii*) any legal practitioner who is entitled to practise in any civil court in India, or

(*iv*) an accountant, or

(*v*) any person who has passed any accountancy examination recognised in this behalf by the Board, or R 50

(*vi*) any person who has acquired such educational qualifications as the Board may prescribe for this purpose, or R 51

[9][(*vi-a*) any person who, before the coming into force of this Act in the Union territory of Dadra and Nagar Haveli, Goa, Daman and Diu, or Pondicherry, attended before an Income-tax authority in the said territory on behalf of any assessee otherwise than in the capacity of an employee or relative of that assessee, or]

(*vii*) any other person who, immediately before the commencement of this Act, was an Income-tax practitioner within the meaning of clause (*iv*) of sub-section (2) of section 61 of the Indian Income-tax Act, 1922 (XI of 1922), and was actually practising as such

Explanation—In this section, "accountant" means a chartered accountant within the meaning of the Chartered Accountants Act, 1949 (XXXVIII of 1949), and includes, in relation to any State, any person who by virtue of the provisions of sub-section (2) of section 226 of the Companies Act, 1956 (I of 1956), is entitled to be appointed to act as an auditor of companies registered in that State

(3) Notwithstanding anything contained in this section, if the authorised representative is a person formerly employed as an Income-tax authority, not below the rank of Income-tax Officer, and has retired or resigned from such employment after having served for not less than three years in any capacity under this Act or under the Indian Income-tax Act, 1922 (XI of 1922), from the date of his first employment as such, he shall not be entitled to represent any assessee for a period of two years from the date of his retirement or resignation, as the case may be.

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[9] Inserted by cl 3 and Sch , Taxation Laws (Extension to Union Territories) Regulation, 1963, w e f 1-4-1963 The amendment is restricted in its application to the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry

(4) No person—

(*a*) who has been dismissed or removed from Government service after the 1st day of April, 1938, or

(*b*) who has been convicted of an offence connected with any income-tax proceeding or on whom a penalty has been imposed under this Act other than a penalty imposed on him under clauses (*i*) and (*ii*) of sub-section (1) of section 271, or

(*c*) who has become an insolvent,

shall be qualified to represent an assessee under sub-section (1), for all times in the case of a person referred to in sub-clause (*a*), for such time as the Commissioner may by order determine in the case of a person referred to in sub-clause (*b*), and for the period during which the insolvency continues in the case of a person referred to in sub-clause (*c*)

(5) If any person—

(*a*) who is a legal practitioner or an accountant is found guilty of misconduct in his professional capacity by any authority entitled to institute disciplinary proceedings against him, an order passed by that authority shall have effect in relation to his right to attend before an Income-tax authority as it has in relation to his right to practise as a legal practitioner or accountant, as the case may be,

Rr 52, 59-66 (*b*) who is not a legal practitioner or an accountant, is found guilty of misconduct in connection with any income-tax proceedings by the prescribed authority, the prescribed authority may direct that he shall thenceforth be disqualified to represent an assessee under sub-section (1)

(6) Any order or direction under clause (*b*) of sub-section (4) or clause (*b*) of sub-section (5) shall be subject to the following conditions, namely,—

(*a*) no such order or direction shall be made in respect of any person unless he has been given a reasonable opportunity of being heard,

(*b*) any person against whom any such order or direction is made may, within one month of the making of the order or direction, appeal to the Board to have the order or direction cancelled; and

(*c*) no such order or direction shall take effect until the expiration of one month from the making thereof, or, where an appeal has been preferred, until the disposal of the appeal

(7) A person disqualified to represent an assessee by virtue of the provisions of sub-section (3) of section 61 of the Indian Income-tax Act, 1922 (XI of 1922), shall be disqualified to represent an assessee under sub-section (1)

[10][**288A. Rounding off of income.**—[11]* * The amount of total income computed in accordance with the foregoing provisions of this Act shall be rounded off to the nearest multiple of ten rupees and for this purpose any part of a rupee consisting of *paise* shall be ignored and thereafter if such amount is not a multiple of ten, then, if the last figure in that amount is five or more, the amount shall be increased to the next higher amount which is a multiple of ten and if the last figure is less than five, the amount shall be reduced to the next lower amount which is a multiple

[10] Inserted by s 34, F Act, 1966, w e f 1-4-1966
[11] "(1) Subject to the provisions of sub-section (2)" omitted by s 30 and 3rd Sch , F Act, 1968, w e f 1-4-1969

of ten, and the amount so rounded off shall be deemed to be the total income of the assessee for the purposes of this Act

[12] * * * * *

288B. Rounding off of tax, etc.—The amount of tax (including tax deductible at source or payable in advance), interest, penalty, fine or any other sum payable, and the amount of refund due, under the provisions of this Act shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of *paise*, then, if such part is fifty *paise* or more, it shall be increased to one rupee and if such part is less than fifty *paise*, it shall be ignored]

289. Receipt to be given.—A receipt shall be given for any money paid or recovered under this Act

290. Indemnity.—Every person deducting, retaining, or paying any tax in pursuance of this Act in respect of income belonging to another person is hereby indemnified for the deduction, retention, or payment thereof

291. Power to tender immunity from prosecution.—(1) The Central Government may, if it is of opinion (the reasons for such opinion being recorded in writing) that with a view to obtaining the evidence of any person appearing to have been directly or indirectly concerned in or privy to the concealment of income or to the evasion of payment of tax on income [13][it is necessary or expedient so to do], tender to such person immunity from prosecution for any offence under this Act or under the Indian Penal Code (XLV of 1860) or under any other Central Act for the time being in force and also from the imposition of any penalty under this Act on condition of his making a full and true disclosure of the whole circumstances relating to the concealment of income or evasion of payment of tax on income

(2) A tender of immunity made to, and accepted by, the person concerned, shall, to the extent to which the immunity extends, render him immune from prosecution for any offence in respect of which the tender was made or from the imposition of any penalty under this Act

(3) If it appears to the Central Government that any person to whom immunity has been tendered under this section has not complied with the condition on which the tender was made or is wilfully concealing anything or is giving false evidence, the Central Government may record a finding to that effect, and thereupon the immunity shall be deemed to have been withdrawn, and any such person may be tried for the offence in respect of which the tender of immunity was made or for any other offence of which he appears to have been guilty in connection with the same matter and shall also become liable to the imposition of any penalty under this Act to which he would otherwise have been liable

292. Cognisance of offences.—No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence under this Act

[14][**292A. Section 360 of the Code of Criminal Procedure, 1973, and the Probation of Offenders Act, 1958, not to apply.**—Nothing contained in section 360 of the Code of Criminal Procedure, 1973 (II of 1974), or in the Probation of Offenders Act, 1958 (XX of 1958), shall apply to a person convicted of an offence under this Act unless that person is under eighteen years of age

292B. Return of income, etc., not to be invalid on certain grounds.—No return of income, assessment, notice, summons or other proceeding furnished or made or issued or taken or purported to have been furnished or made or issued or taken in

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[12] Sub-s (2) and Explanation omitted by s 30 and 3rd Sch , F Act, 1968, w e f 1-4-1969
[13] Inserted by s 18, F Act, 1963, w e f 28-4-1963
[14] Inserted by s 78, Taxation Laws (Amendment) Act, 1975, w e f 1-10-1975

pursuance of any of the provisions of this Act shall be invalid or shall be deemed to be invalid merely by reason of any mistake, defect or omission in such return of income, assessment, notice, summons or other proceeding if such return of income, assessment, notice, summons or other proceeding is in substance and effect in conformity with or according to the intent and purpose of this Act]

293. Bar of suits in civil courts.—No suit shall be brought in any civil court to set aside or modify any assessment order made under this Act, and no prosecution, suit or other proceeding shall lie against [15][the Government or] any officer of the Government for anything in good faith done or intended to be done under this Act

294. Act to have effect pending legislative provision for charge of tax.—If on the 1st day of April in any assessment year provision has not yet been made by a Central Act for the charging of income-tax [16]* * for that assessment year, this Act shall nevertheless have effect until such provision is so made as if the provision in force in the preceding assessment year or the provision proposed in the Bill then before Parliament, whichever is more favourable to the assessee, were actually in force

[17][**294A. Power to make exemption, etc., in relation to certain Union territories.**—If the Central Government considers it necessary or expedient so to do for avoiding any hardship or anomaly or removing any difficulty that may arise as a result of the application of this Act to the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry, or in the case of the Union territory of Pondicherry, for implementing any provision of the Treaty of Cession concluded between France and India on the 28th day of May, 1956, that Government may, by general or special order, make an exemption, reduction in rate or other modification in respect of income-tax or super-tax in favour of any assessee or class of assessees or in regard to the whole or any part of the income of any assessee or class of assessees:

Provided that the power conferred by this section shall not be exercisable after the 31st day of March, 1967, except for the purpose of rescinding an exemption, reduction or modification already made]

295. Power to make rules.—(1) The Board may, subject to the control of the Central Government, by notification in the Gazette of India, make rules for the whole or any part of India for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters—

(*a*) the ascertainment and determination of any class of income,

(*b*) the manner in which and the procedure by which the income shall be arrived at in the case of—

Rr 7, 8 (*i*) income derived in part from agriculture and in part from business,

Rr 10, 11 (*ii*) persons residing outside India,

[18][(*iii*) an individual who is liable to be assessed under the provisions of sub-section (2) of section 64,]

R 3 (*c*) the determination of the value of any perquisite chargeable to tax under this Act in such manner and on such basis as appears to the Board to be proper and reasonable,

[15] Inserted by s 46, F Act, 1964, w e f 1-4-1964
[16] "Or super-tax" omitted by s 63, F Act, 1965, w e f 1-4-1965
[17] Inserted by cl 3 and Sch , Taxation Laws (Extension to Union Territories) Regulation, 1963, w e f 1-4-1963
[18] Inserted by s 55, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

(*d*) the percentage on the written down value which may be allowed as depreciation in respect of buildings, machinery, plant or furniture, R 5

[19][(*dd*) the extent to which, and the conditions subject to which, any expenditure referred to in sub-section (3) of section 37 may be allowed;] Rr 6AC, 6B, 6D

[20][(*dda*) the matters specified in sub-sections (2) and (3) of section 44AA,]

(*e*) the percentage or the amount to be prescribed under [21][clause (*i*) of sub-section (4) of section 80C], Rr 11A, 21

[20][(*ee*) the conditions or limitations subject to which any payment of rent made by an assessee shall be deducted under section 80GG,

(*eea*) the cases, the nature and value of assets, the limits and heads of expenditure and the outgoings, which are required to be prescribed under sub-section (6) of section 139,

(*eeb*) the time within which any person may apply for the allotment of a permanent account number, the form and the manner in which such application may be made and the particulars which such application shall contain and the transactions with respect to which permanent account numbers shall be quoted on documents relating to such transactions under section 139A,

(*eec*) the form of the report of audit and the particulars which such report shall contain under sub-section (2A) of section 142,]

(*f*) the manner in which and the period to which any such income as is referred to in section 180 may be allocated, R 9

(*g*) the authority to be prescribed for any of the purposes of this Act, Rr 6, 6A, 16A, 18A, 52

(*h*) the procedure for giving effect to the terms of any agreement for the granting of relief in respect of double taxation or for the avoidance of double taxation which may be entered into by the Central Government under this Act,

(*i*) the form and manner in which any application, claim, return or information may be made or furnished and the fees that may be levied in respect of any application or claim,

(*j*) the manner in which any document required to be filed under this Act may be verified,

(*k*) the procedure to be followed on applications for refunds, R 41

[22][(*kk*) the procedure to be followed in calculating interest payable by assessees or interest payable by Government to assessees under any provision of this Act, including the rounding off of the period for which such interest is to be calculated in cases where such period includes a fraction of a month, and specifying the circumstances in which and the extent to which petty amounts of interest payable by assessees may be ignored,] R 119A

(*l*) the regulation of any matter for which provision is made in section 230, Rr 42-44

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[19] Inserted by s 47, F Act, 1964, w e f 1-4-1964
[20] Inserted by s 79, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976
[21] Substituted for "clause (*i*) of sub-section (3) of section 87 or clause (*i*) of sub-section (4) of section 80A, as the case may be" by s 33 and 3rd Sch , F (No 2) Act, 1967, w e f 1-4-1968
[22] Inserted by s 55, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

Rr 45, 46, 47 (*m*) the form and manner in which any appeal or cross-objection may be filed under this Act, the fee payable in respect thereof and the manner in which intimation of any such order as is referred to in clause (*c*) of sub-section (2) of section 249 may be served,

R 46A [23][(*mm*) the circumstances in which, the conditions subject to which and the manner in which, the Appellate Assistant Commissioner may permit an appellant to produce evidence which he did not produce or which he was not allowed to produce before the Income-tax Officer,]

[21][(*mma*) the form in which the statement under section 285B shall be delivered to the Income-tax Officer,]

Rr 52-66 (*n*) the maintenance of a register of persons other than legal practitioners or accountants as defined in sub-section (2) of section 288 practising before Income-tax authorities and for the constitution of and the procedure to be followed by the authority referred to in sub-section (5) of that section,

(*o*) the issue of certificate verifying the payment of tax by assessees,

(*p*) any other matter which by this Act is to be, or may be, prescribed

(3) In cases coming under clause (*b*) of sub-section (2), where the income liable to tax cannot be definitely ascertained, or can be ascertained only with an amount of trouble and expense to the assessee which in the opinion of the Board is unreasonable, the rules made under this section may—

(*a*) prescribe methods by which an estimate of such income may be made, and

(*b*) in cases coming under sub-clause (*i*) of clause (*b*) of sub-section (2) specify the proportion of the income which shall be deemed to be income liable to tax,

and an assessment based on such estimate or proportion shall be deemed to be duly made in accordance with the provisions of this Act

[25][(4) The power to make rules conferred by this section shall include the power to give retrospective effect, from a date not earlier than the date of commencement of this Act, to the rules or any of them and, unless the contrary is permitted (whether expressly or by necessary implication), no retrospective effect shall be given to any rule so as to prejudicially affect the interests of assessees.]

[1][**296. Rules and certain notifications to be placed before Parliament.**—The Central Government shall cause every rule made under this Act and every notification issued under sub-clause (*iv*) of clause (*23C*) of section 10 to be laid as soon as may be after the rule is made or the notification is issued before each House of Parliament while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and, if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule or notification should not be made or issued, that rule or notification shall thereafter have effect, only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification]

[23] Inserted by s 41, F Act, 1972, w e f 1-4-1972.
[21] Inserted by s 79, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976.
[25] Inserted by s 14, Direct Taxes (Amendment) Act, 1974, w e f. 18-8-1974
[1] Substituted by s 80, Taxation Laws (Amendment) Act, 1975, w e f 1-4-1976

297. Repeals and savings.—(1) The Indian Income-tax Act, 1922 (XI of 1922), is hereby repealed.

(2) Notwithstanding the repeal of the Indian Income-tax Act, 1922 (XI of 1922) (hereinafter referred to as the repealed Act),—

(*a*) where a return of income has been filed before the commencement of this Act by any person for any assessment year, proceedings for the assessment of that person for that year may be taken and continued as if this Act had not been passed,

(*b*) where a return of income is filed after the commencement of this Act otherwise than in pursuance of a notice under section 34 of the repealed Act by any person for the assessment year ending on the 31st day of March, 1962, or any earlier year, the assessment of that person for that year shall be made in accordance with the procedure specified in this Act,

(*c*) any proceeding pending on the commencement of this Act before any Income-tax authority, the Appellate Tribunal or any court, by way of appeal, reference or revision, shall be continued and disposed of as if this Act had not been passed,

(*d*) where in respect of any assessment year after the year ending on the 31st day of March, 1940,—

(*i*) a notice under section 34 of the repealed Act had been issued before the commencement of this Act, the proceedings in pursuance of such notice may be continued and disposed of as if this Act had not been passed,

(*ii*) any income chargeable to tax had escaped assessment within the meaning of that expression in section 147 and no proceedings under section 34 of the repealed Act in respect of any such income are pending at the commencement of this Act, a notice under section 148 may, subject to the provisions contained in section 149 or section 150, be issued with respect to that assessment year and all the provisions of this Act shall apply accordingly,

(*e*) [2][subject to the provisions of clause (*g*) and clause (*j*) of this sub-section] section 23A of the repealed Act shall continue to have effect in relation to the assessment of any company or its shareholders for the assessment year ending on the 31st day of March, 1962, or any earlier year, and the provisions of the repealed Act shall apply to all matters arising out of such assessment as fully and effectually as if this Act had not been passed,

(*f*) any proceeding for the imposition of a penalty in respect of any assessment completed before the 1st day of April, 1962, may be initiated and any such penalty may be imposed as if this Act had not been passed,

(*g*) any proceeding for the imposition of a penalty in respect of any assessment for the year ending on the 31st day of March, 1962, or any earlier year, which is completed on or after the 1st day of April, 1962, may be initiated and any such penalty may be imposed under this Act,

(*h*) any election or declaration made or option exercised by an assessee under any provision of the repealed Act and in force immediately before

[2] Retrospectively inserted by s 19, F Act, 1963

the commencement of this Act shall be deemed to have been an election or declaration made or option exercised under the corresponding provision of this Act,

(*i*) where, in respect of any assessment completed before the commencement of this Act, a refund falls due after such commencement or default is made after such commencement in the payment of any sum due under such completed assessment, the provisions of this Act relating to interest payable by the Central Government on refunds and interest payable by the assessee for default shall apply,

(*j*) any sum payable by way of income-tax, super-tax, interest, penalty or otherwise under the repealed Act may be recovered under this Act, but without prejudice to any action already taken for the recovery of such sum under the repealed Act,

(*k*) any agreement entered into, appointment made, approval given, recognition granted, direction, instruction, notification, order or rule issued under any provision of the repealed Act shall, so far as it is not inconsistent with the corresponding provision of this Act, be deemed to have been entered into, made, granted, given or issued under the corresponding provision aforesaid and shall continue in force accordingly;

(*l*) any notification issued under sub-section (1) of section 60 [3][or section 60A] of the repealed Act and in force immediately before the commencement of this Act shall, to the extent to which provision has not been made under this Act, continue in force [4]* *

[4][Provided that the Central Government may rescind any such notification or amend it so as to rescind any exemption, reduction in rate or other modification made thereunder,]

(*m*) where the period prescribed for any application, appeal, reference or revision under the repealed Act had expired on or before the commencement of this Act, nothing in this Act shall be construed as enabling any such application, appeal, reference or revision to be made under this Act by reason only of the fact that a longer period therefor is prescribed or provision is made for extension of time in suitable cases by the appropriate authority

298. Power to remove difficulties.—(1) If any difficulty arises in giving effect to the provisions of this Act the Central Government may, by general or special order, do anything not inconsistent with such provisions which appears to it to be necessary or expedient for the purpose of removing the difficulty.

(2) In particular, and without prejudice to the generality of the foregoing power, any such order may provide for the adaptations or modifications subject to which the repealed Act shall apply in relation to the assessments for the assessment year ending on the 31st day of March, 1962, or any earlier year

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[3] Retrospectively inserted by s 35, F Act, 1966

[4] "Until rescinded by the Central Government" omitted, and the proviso inserted, by s 7, Rulers of Indian States (Abolition of Privileges) Act, 1972, w e f 9-9-1972

THE FIRST SCHEDULE

INSURANCE BUSINESS

[See section 44]

A.—Life insurance business

1. Profits of life insurance business to be computed separately.—In the case of a person who carries on or at any time in the previous year carried on life insurance business, the profits and gains of such person from that business shall be computed separately from his profits and gains from any other business.

2. Computation of profits of life insurance business.—(1) The profits and gains of life insurance business shall be taken to be the greater of the following —

(*a*) the gross external incomings of the previous year from that business, less the management expenses of that year,

(*b*) the annual average of the surplus arrived at by adjusting the surplus or deficit disclosed by the actuarial valuation made in accordance with the Insurance Act, 1938 (IV of 1938), in respect of the last inter-valuation period ending before the commencement of the assessment year, so as to exclude from it any surplus or deficit included therein which was made in any earlier inter-valuation period and any expenditure or allowance which is not deductible under the provisions of sections 30 to [5][43A] in computing income chargeable under the head "Profits and gains of business or profession"

(2) The amount to be allowed as management expenses under sub-rule (1) shall not exceed the aggregate of the following —

(*a*) 7½ per cent of the premiums received during the previous year in respect of single premium life insurance policies,

(*b*) in respect of the first year's premiums received in respect of other life insurance policies for which the number of annual premiums payable is less than twelve, or for which the number of years during which premiums are payable is less than twelve, for each such premium or each such year 7½ per cent of such first year's premiums received during the previous year,

(*c*) 90 per cent of the first year's premiums received during the previous year in respect of all other life insurance policies,

(*d*) in respect of all renewal premiums received during the previous year, an amount calculated at such percentage thereof as is permissible under sub-section (2) of section 40B of the Insurance Act, 1938 (IV of 1938), as reduced by any expenditure or allowance which is not deductible under sections 30 to [5][43A] in computing income chargeable under the head "Profits and gains of business or profession"

3. Deductions.—In computing the surplus for the purpose of rule 2,—

(*a*) four-fifths of the amounts paid to or reserved for or expended on behalf of policy-holders shall be allowed as a deduction

Provided that if any amount so reserved for policy-holders ceases to be so reserved, and is not paid to or expended on behalf of policy-holders,

[5] Substituted for "43" by s 32, F (No 2) Act, 1967, w e f 1-4-1967

the commencement of this Act shall be deemed to have been an election or declaration made or option exercised under the corresponding provision of this Act,

(*i*) where, in respect of any assessment completed before the commencement of this Act, a refund falls due after such commencement or default is made after such commencement in the payment of any sum due under such completed assessment, the provisions of this Act relating to interest payable by the Central Government on refunds and interest payable by the assessee for default shall apply,

(*j*) any sum payable by way of income-tax, super-tax, interest, penalty or otherwise under the repealed Act may be recovered under this Act, but without prejudice to any action already taken for the recovery of such sum under the repealed Act,

(*k*) any agreement entered into, appointment made, approval given, recognition granted, direction, instruction, notification, order or rule issued under any provision of the repealed Act shall, so far as it is not inconsistent with the corresponding provision of this Act, be deemed to have been entered into, made, granted, given or issued under the corresponding provision aforesaid and shall continue in force accordingly,

(*l*) any notification issued under sub-section (1) of section 60 [3][or section 60A] of the repealed Act and in force immediately before the commencement of this Act shall, to the extent to which provision has not been made under this Act, continue in force [4]* *

[4][Provided that the Central Government may rescind any such notification or amend it so as to rescind any exemption, reduction in rate or other modification made thereunder,]

(*m*) where the period prescribed for any application, appeal, reference or revision under the repealed Act had expired on or before the commencement of this Act, nothing in this Act shall be construed as enabling any such application, appeal, reference or revision to be made under this Act by reason only of the fact that a longer period therefor is prescribed or provision is made for extension of time in suitable cases by the appropriate authority

298. Power to remove difficulties.—(1) If any difficulty arises in giving effect to the provisions of this Act the Central Government may, by general or special order, do anything not inconsistent with such provisions which appears to it to be necessary or expedient for the purpose of removing the difficulty

(2) In particular, and without prejudice to the generality of the foregoing power, any such order may provide for the adaptations or modifications subject to which the repealed Act shall apply in relation to the assessments for the assessment year ending on the 31st day of March, 1962, or any earlier year

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[3] Retrospectively inserted by s 35, F Act, 1966

[4] "Until rescinded by the Central Government" omitted, and the proviso inserted, by s 7, Rulers of Indian States (Abolition of Privileges) Act, 1972, w e f 9-9-1972

THE FIRST SCHEDULE

INSURANCE BUSINESS

[See section 44]

A.—Life insurance business

1. Profits of life insurance business to be computed separately.—In the case of a person who carries on or at any time in the previous year carried on life insurance business, the profits and gains of such person from that business shall be computed separately from his profits and gains from any other business.

2. Computation of profits of life insurance business.—(1) The profits and gains of life insurance business shall be taken to be the greater of the following —

(*a*) the gross external incomings of the previous year from that business, less the management expenses of that year,

(*b*) the annual average of the surplus arrived at by adjusting the surplus or deficit disclosed by the actuarial valuation made in accordance with the Insurance Act, 1938 (IV of 1938), in respect of the last inter-valuation period ending before the commencement of the assessment year, so as to exclude from it any surplus or deficit included therein which was made in any earlier inter-valuation period and any expenditure or allowance which is not deductible under the provisions of sections 30 to [5][43A] in computing income chargeable under the head "Profits and gains of business or profession"

(2) The amount to be allowed as management expenses under sub-rule (1) shall not exceed the aggregate of the following —

(*a*) 7½ per cent of the premiums received during the previous year in respect of single premium life insurance policies,

(*b*) in respect of the first year's premiums received in respect of other life insurance policies for which the number of annual premiums payable is less than twelve, or for which the number of years during which premiums are payable is less than twelve, for each such premium or each such year 7½ per cent of such first year's premiums received during the previous year,

(*c*) 90 per cent of the first year's premiums received during the previous year in respect of all other life insurance policies,

(*d*) in respect of all renewal premiums received during the previous year, an amount calculated at such percentage thereof as is permissible under sub-section (2) of section 40B of the Insurance Act, 1938 (IV of 1938), as reduced by any expenditure or allowance which is not deductible under sections 30 to [5][43A] in computing income chargeable under the head "Profits and gains of business or profession"

3. Deductions.—In computing the surplus for the purpose of rule 2,—

(*a*) four-fifths of the amounts paid to or reserved for or expended on behalf of policy-holders shall be allowed as a deduction

Provided that if any amount so reserved for policy-holders ceases to be so reserved, and is not paid to or expended on behalf of policy-holders,

[5] Substituted for "43" by s 32, F (No 2) Act, 1967, w e f 1-4-1967

that proportion of such amount (one-half or four-fifths, as the case may be) if it has been previously allowed as a deduction under this Act or under the Indian Income-tax Act, 1922 (XI of 1922), shall be treated as part of the surplus for the period in which the said amount ceased to be so reserved,

(*b*) any amount either written off or reserved in the accounts or through the actuarial valuation balance sheet to meet depreciation of or loss on the realisation of investments shall be allowed as a deduction, and any sums taken credit for in the accounts or actuarial valuation balance sheet on account of appreciation of or gains on the realisation of investments shall be included in the surplus

Provided that if upon investigation it appears to the Income-tax Officer after consultation with the Controller of Insurance that having due regard to the necessity for making reasonable provision for bonuses to participating policy-holders and for contingencies, the rate of interest or other factor employed in determining the liability in respect of outstanding policies is materially inconsistent with the valuation of investments so as artificially to reduce the surplus, such adjustment shall be made to the allowance for depreciation or to the amount to be included in the surplus in respect of appreciation of such investments as shall increase the surplus for the purposes of these provisions to a figure which is fair and just,

(*c*) interest received during the inter-valuation period in respect of any securities of the Central Government which have been issued or declared to be income-tax free, shall not be excluded, [6][but the assessee shall be entitled to a deduction from the amount of income-tax with which he is chargeable on his total income, of an amount calculated at the rate of [7][twenty-seven and a half] per cent on the annual average of the amount of such interest]

4. Adjustment of tax paid by deduction at source.—Where for any year an assessment of the profits of life insurance business is made in accordance with the annual average of a surplus disclosed by a valuation for an inter-valuation period exceeding twelve months, then, in computing the income-tax payable for that year, credit shall not be given in accordance with section 199 for the income-tax paid in the previous year, but credit shall be given for the annual average of the income-tax paid by deduction at source from interest on securities or otherwise during such period

B —Other insurance business

5. Computation of profits and gains of other insurance business.—The profits and gains of any business of insurance other than life insurance shall be taken to be the balance of the profits disclosed by the annual accounts, copies of which are required under the Insurance Act, 1938 (IV of 1938), to be furnished to the Controller of Insurance, subject to the following adjustments —

(*a*) subject to the other provisions of this rule, any expenditure or allowance which is not admissible under the provisions of sections 30 to [8][43A] in computing the profits and gains of a business shall be added back,

(*b*) any amount either written off or reserved in the accounts to meet depreciation of or loss on the realisation of investments shall be allowed as a

[6] Substituted for "but no income-tax shall be payable on the annual average of the amount of such interest" by s 65, F Act, 1965, w e f 1-4-1965

[7] Substituted for "twenty-five" by s 36, F Act, 1966, w e f 1-4-1966

[8] Substituted for "43" by s 32, F (No 2) Act, 1967, w e f 1-4-1967

deduction, and any sums taken credit for in the accounts on account of appreciation of or gains on the realisation of investments shall be treated as part of the profits and gains·

Provided that the Income-tax Officer is satisfied about the reasonableness of the amount written off or reserved in the accounts, as the case may be, to meet depreciation of or loss on the realisation of investments;

(*c*) such amount carried over to a reserve for unexpired risks as may be prescribed in this behalf shall be allowed as a deduction R 6E

C —Other provisions

6. Profits and gains of non-resident person.—(1) The profits and gains of the branches in India of a person not resident in India and carrying on any business of insurance, may, in the absence of more reliable data, be deemed to be that proportion of the world income of such person which corresponds to the proportion which his premium income derived from India bears to his total premium income

(2) For the purposes of this rule, the world income in relation to life insurance business of a person not resident in India shall be computed in the manner laid down in this Act for the computation of the profits and gains of life insurance business carried on in India

7. Interpretation.—(1) For the purposes of these rules—

(*i*) "gross external incomings" means the full amount of incomings from interest, dividends, fines and fees and all other incomings from whatever source derived (except premiums received from policy-holders and interest and dividends on any annuity fund), and includes also profits from reversions and on the sale or the granting of annuities, but excludes profits on the realisation of investments

Provided that incomings, including the annual value of the property occupied by the assessee, which but for the provisions of section 44 would have been assessable under the head "Income from house property", shall be computed in the manner applicable to income chargeable under that head, and that there shall be allowed from such gross incomings such deductions as are permissible in respect of income chargeable under that head,

(*ii*) "investments" includes securities, stocks and shares,

(*iii*) "management expenses" means the full amount of expenses (including commissions) incurred exclusively in the management of the business of life insurance, and in the case of a company carrying on other classes of business as well as the business of life insurance, in addition thereto a fair proportion of the expenses incurred in the general management of the whole business Bonuses or other sums paid to or reserved on behalf of policy-holders, depreciation of, and losses on the realisation of, investments, and any expenditure or allowance other than expenditure or allowance which may under the provisions of sections 30 to [9][43A] be allowed for in computing the profits and gains of a business, are not management expenses for the purposes of these rules,

(*iv*) "life insurance business" means life insurance business as defined in clause (*11*) of section 2 of the Insurance Act, 1938 (IV of 1938),

[9] Substituted for "43" by s 32, F. (No 2) Act, 1967, w e f 1-4-1967

(v) "rule" means a rule contained in this Schedule.

(2) References in these rules to the Insurance Act, 1938 (IV of 1938), or any provision thereof, shall, in relation to the Life Insurance Corporation of India, be construed as references to that Act or provision as read with section 43 of the Life Insurance Corporation Act, 1956 (XXXI of 1956)

THE SECOND SCHEDULE

PROCEDURE FOR RECOVERY OF TAX

[See section 222]

PART I

General provisions

1. **Definitions.**—In this Schedule, unless the context otherwise requires,—

(*a*) "certificate" means a certificate received by the Tax Recovery Officer from the Income-tax Officer for the recovery of arrears under this Schedule,

(*b*) "defaulter" means the assessee mentioned in the certificate,

(*c*) "execution", in relation to a certificate, means recovery of arrears in pursuance of the certificate,

(*d*) "movable property" includes growing crops,

(*e*) "officer" means a person authorised to make an attachment or sale under this Schedule,

(*f*) "rule" means a rule contained in this Schedule, and

(*g*) "share in a corporation" includes stock, debenture-stock, debentures or bonds

2. **Issue of notice.**—When a certificate has been received by the Tax Recovery Officer from the Income-tax Officer for the recovery of arrears under this Schedule, the Tax Recovery Officer shall cause to be served upon the defaulter a notice requiring the defaulter to pay the amount specified in the certificate within fifteen days from the date of service of the notice and intimating that in default steps would be taken to realise the amount under this Schedule

3. **When certificate may be executed.**—No step in execution of a certificate shall be taken until the period of fifteen days has elapsed since the date of the service of the notice required by the preceding rule

Provided that, if the Tax Recovery Officer is satisfied that the defaulter is likely to conceal, remove or dispose of the whole or any part of such of his movable property as would be liable to attachment in execution of a decree of a civil court and that the realisation of the amount of the certificate would in consequence be delayed or obstructed, he may at any time direct, for reasons to be recorded in writing, an attachment of the whole or any part of such property

Provided further that if the defaulter whose property has been so attached furnishes security to the satisfaction of the Tax Recovery Officer, such attachment shall be cancelled from the date on which such security is accepted by the Tax Recovery Officer

4. Mode of recovery.—If the amount mentioned in the notice is not paid within the time specified therein or within such further time as the Tax Recovery Officer may grant in his discretion, the Tax Recovery Officer shall proceed to realise the amount by one or more of the following modes —

(*a*) by attachment and sale of the defaulter's movable property,

(*b*) by attachment and sale of the defaulter's immovable property,

(*c*) by arrest of the defaulter and his detention in prison,

(*d*) by appointing a receiver for the management of the defaulter's movable and immovable properties

5. Interest, costs and charges recoverable.—There shall be recoverable, in the proceedings in execution of every certificate,—

(*a*) such interest upon the amount of tax or penalty or other sum to which the certificate relates as is payable in accordance with sub-section (2) of section 220, and

(*b*) all charges incurred in respect of—

(*i*) the service of notice upon the defaulter to pay the arrears, and of warrants and other processes, and

(*ii*) all other proceedings taken for realising the arrears

6. Purchaser's title.—(1) Where property is sold in execution of a certificate, there shall vest in the purchaser merely the right, title and interest of the defaulter at the time of the sale, even though the property itself be specified

(2) Where immovable property is sold in execution of a certificate, and such sale has become absolute, the purchaser's right, title and interest shall be deemed to have vested in him from the time when the property is sold, and not from the time when the sale becomes absolute

7. Suit against purchaser not maintainable on ground of purchase being made on behalf of plaintiff.—(1) No suit shall be maintained against any person claiming title under a purchase certified by the Tax Recovery Officer in the manner laid down in this Schedule, on the ground that the purchase was made on behalf of the plaintiff or on behalf of some one through whom the plaintiff claims

(2) Nothing in this section shall bar a suit to obtain a declaration that the name of any purchaser certified as aforesaid was inserted in the certificate fraudulently or without the consent of the real purchaser, or interfere with the right of a third person to proceed against that property, though ostensibly sold to the certified purchaser, on the ground that it is liable to satisfy a claim of such third person against the real owner.

8. Disposal of proceeds of execution.—(1) Whenever assets are realised, by sale or otherwise in execution of a certificate, they shall be disposed of in the following manner —

(*a*) there shall first be paid to the Income-tax Officer the costs incurred by him,

(*b*) there shall, in the next place, be paid to the Income-tax Officer the amount due under the certificate in execution of which the assets were realised,

(*c*) if there remains a balance after these sums have been paid, there shall be paid to the Income-tax Officer therefrom any other amount recoverable under the procedure provided by this Act which may be due upon the date upon which the assets were realised, and

(*d*) the balance (if any) remaining after the payment of the amount (if any) referred to in clause (*c*) shall be paid to the defaulter.

(2) If the defaulter disputes any claim made by the Income-tax Officer to receive any amount referred to in clause (*c*), the Tax Recovery Officer shall determine the dispute

9. General bar to jurisdiction of civil courts, save where fraud alleged.—Except as otherwise expressly provided in this Act, every question arising between the Income-tax Officer and the defaulter or their representatives, relating to the execution, discharge or satisfaction of a certificate duly filed under this Act, or relating to the confirmation or setting aside by an order under this Act of a sale held in execution of such certificate, shall be determined, not by suit, but by order of the Tax Recovery Officer before whom such question arises

Provided that a suit may be brought in a civil court in respect of any such question upon the ground of fraud.

10. Property exempt from attachment.—(1) All such property as is by the Code of Civil Procedure, 1908 (V of 1908), exempted from attachment and sale in execution of a decree of a civil court shall be exempt from attachment and sale under this Schedule.

(2) The Tax Recovery Officer's decision as to what property is so entitled to exemption shall be conclusive.

11. Investigation by Tax Recovery Officer.—(1) Where any claim is preferred to, or any objection is made to the attachment or sale of, any property in execution of a certificate, on the ground that such property is not liable to such attachment or sale, the Tax Recovery Officer shall proceed to investigate the claim or objection:

Provided that no such investigation shall be made where the Tax Recovery Officer considers that the claim or objection was designedly or unnecessarily delayed

(2) Where the property to which the claim or objection applies has been advertised for sale, the Tax Recovery Officer ordering the sale may postpone it pending the investigation of the claim or objection, upon such terms as to security or otherwise as the Tax Recovery Officer shall deem fit.

(3) The claimant or objector must adduce evidence to show that—

(*a*) (in the case of immovable property) at the date of the service of the notice issued under this Schedule to pay the arrears, or

(*b*) (in the case of movable property) at the date of the attachment,

he had some interest in, or was possessed of, the property in question.

(4) Where, upon the said investigation, the Tax Recovery Officer is satisfied that, for the reason stated in the claim or objection, such property was not, at the said date, in the possession of the defaulter or of some person in trust for him or in the occupancy of a tenant or other person paying rent to him, or that, being in the possession of the defaulter at the said date, it was so in his possession, not on his own account or as his own property, but on account of or in trust for some other person, or partly on his own account and partly on account of some other person, the Tax Recovery Officer shall make an order releasing the property, wholly or to such extent as he thinks fit, from attachment or sale

(5) Where the Tax Recovery Officer is satisfied that the property was, at the said date, in the possession of the defaulter as his own property and not on account of any other person, or was in the possession of some other person in trust for him, or in the occupancy of a tenant or other person paying rent to him, the Tax Recovery Officer shall disallow the claim

(6) Where a claim or an objection is preferred, the party against whom an order is made may institute a suit in a civil court to establish the right which he claims to the property in dispute, but, subject to the result of such suit (if any), the order of the Tax Recovery Officer shall be conclusive.

12. Removal of attachment on satisfaction or cancellation of certificate.—Where—

(*a*) the amount due, with costs and all charges and expenses resulting from the attachment of any property or incurred in order to hold a sale, are paid to the Tax Recovery Officer, or

(*b*) the certificate is cancelled,

the attachment shall be deemed to be withdrawn and, in the case of immovable property, the withdrawal shall, if the defaulter so desires, be proclaimed at his expense, and a copy of the proclamation shall be affixed in the manner provided by this Schedule for a proclamation of sale of immovable property

13. Officer entitled to attach and sell.—The attachment and sale of movable property and the attachment and sale of immovable property may be made by such persons as the Tax Recovery Officer may from time to time direct

14. Defaulting purchaser answerable for loss on resale.—Any deficiency of price which may happen on a resale by reason of the purchaser's default, and all expenses attending such resale, shall be certified to the Tax Recovery Officer by the officer holding the sale, and shall, at the instance of either the Income-tax Officer or the defaulter, be recoverable from the defaulting purchaser under the procedure provided by this Schedule

Provided that no such application shall be entertained unless filed within fifteen days from the date of resale

15. Adjournment or stoppage of sale.—(1) The Tax Recovery Officer may, in his discretion, adjourn any sale hereunder to a specified day and hour, and the officer conducting any such sale may, in his discretion, adjourn the sale, recording his reasons for such adjournment

Provided that, where the sale is made in, or within the precincts of, the office of the Tax Recovery Officer, no such adjournment shall be made without the leave of the Tax Recovery Officer

(2) Where a sale of immovable property is adjourned under sub-rule (1) for a longer period than one calendar month, a fresh proclamation of sale under this Schedule shall be made unless the defaulter consents to waive it

(3) Every sale shall be stopped if, before the lot is knocked down, the arrears and costs (including the costs of the sale) are tendered to the officer conducting the sale, or proof is given to his satisfaction that the amount of such arrears and costs has been paid to the Tax Recovery Officer who ordered the sale

16. Private alienation to be void in certain cases.—(1) Where a notice has been served on a defaulter under rule 2, the defaulter or his representative in interest shall not be competent to mortgage, charge, lease or otherwise deal with any property belonging to him except with the permission of the Tax Recovery Officer, nor shall any civil court issue any process against such property in execution of a decree for the payment of money

(2) Where an attachment has been made under this Schedule, any private transfer or delivery of the property attached or of any interest therein and any payment to the defaulter of any debt, dividend or other monies contrary to such attachment, shall be void as against all claims enforceable under the attachment

17. Prohibition against bidding or purchase by officer.—No officer or other person having any duty to perform in connection with any sale under this Schedule shall, either directly or indirectly, bid for, acquire or attempt to acquire any interest in the property sold

18. Prohibition against sale on holidays.—No sale under this Schedule shall take place on a Sunday or other general holiday recognised by the State Government or on any day which has been notified by the State Government to be a local holiday for the area in which the sale is to take place

19. Assistance by police.—Any officer authorised to attach or sell any property or to arrest the defaulter or charged with any duty to be performed under this Schedule, may apply to the officer-in-charge of the nearest police station for such assistance as may be necessary in the discharge of his duties, and the authority to whom such application is made shall depute a sufficient number of police officers for furnishing such assistance

[10][**19A. Entrustment of certain functions by Collector or Additional Collector.**—[11][(1) A Tax Recovery Officer, being a Gazetted Officer of the Central Government who is authorised to exercise the powers of a Tax Recovery Officer under this Act, may entrust any of his functions as Tax Recovery Officer to any other officer lower than him in rank (not being lower in rank than an Inspector of Income-tax) and such officer shall, in relation to the functions so entrusted to him, be deemed to be a Tax Recovery Officer

Provided that where the Tax Recovery Officer is an Income-tax Officer any entrustment under this sub-rule shall be made only with the approval of the Inspecting Assistant Commissioner]

[11][(2)] A Tax Recovery Officer, being a Collector or an Additional Collector, may, subject to the approval of the State Government, entrust any of his functions as Tax Recovery Officer to any other officer lower than him in rank who is empowered to effect recovery of arrears of land revenue or other public demand under any law relating to land revenue or other public demand for the time being in force in the State and such officer shall, in relation to functions so entrusted to him, be deemed to be a Tax Recovery Officer]

PART II

Attachment and sale of movable property

Attachment

20. Warrant.—Except as otherwise provided in this Schedule, when any movable property is to be attached, the officer shall be furnished by the Tax Recovery Officer (or other officer empowered by him in that behalf) a warrant in writing and signed with his name specifying the name of the defaulter and the amount to be realised

21. Service of copy of warrant.—The officer shall cause a copy of the warrant to be served on the defaulter

22 Attachment.—If, after service of the copy of the warrant, the amount is not paid forthwith, the officer shall proceed to attach the movable property of the defaulter.

23. Property in defaulter's possession.—Where the property to be attached is movable property (other than agricultural produce) in the possession of the defaulter,

[10] Retrospectively inserted by s 20, F Act, 1963
[11] Inserted by s 81, Taxation Laws (Amendment) Act, 1975, w e f 1-10-1975

ıment shall be made by actual seizure, and the officer shall keep the property n custody or the custody of one of his subordinates and shall be responsible ıstody thereof:

ıded that when the property seized is subject to speedy and natural decay or expense of keeping it in custody is likely to exceed its value, the officer may once

\gricultural produce.—Where the property to be attached is agricultural the attachment shall be made by affixing a copy of the warrant of nt—

a) where such produce is growing crop,—on the land on which such crop has grown, or

b) where such produce has been cut or gathered,—on the threshing floor or place for treading out grain or the like, or fodder-stack, on or in which it is deposited,

ıer copy on the outer door or on some other conspicuous part of the house the defaulter ordinarily resides, or with the leave of the Tax Recovery Officer, ter door or on some other conspicuous part of the house in which he carries ss or personally works for gain, or in which he is known to have last resided l on business or personally worked for gain The produce shall, thereupon, d to have passed into the possession of the Tax Recovery Officer

ʔrovisions as to agricultural produce under attachment.—(1) Where agri- ıroduce is attached, the Tax Recovery Officer shall make such arrangements ustody, watching, tending, cutting and gathering thereof as he may deem , and the Income-tax Officer shall bear such sum as the Tax Recovery Officer ıire in order to defray the cost of such arrangements

ìubject to such conditions as may be imposed by the Tax Recovery Officer ehalf, either in the order of attachment or in any subsequent order, the may tend, cut, gather and store the produce and do any other act necessary ɪing or preserving it, and, if the defaulter fails to do all or any of such acts, ɔn appointed by the Tax Recovery Officer in this behalf may, subject to the ıtions, do all or any of such acts, and the costs incurred by such person shall ɪrable from the defaulter as if they were included in the certificate

\gricultural produce attached as a growing crop shall not be deemed to have be under attachment or to require reattachment merely because it has been rom the soil

Where an order for the attachment of a growing crop has been made at a ıble time before the crop is likely to be fit to be cut or gathered, the Tax Officer may suspend the execution of the order for such time as he thinks fit, , in his discretion, make a further order prohibiting the removal of the crop the execution of the order of attachment

A growing crop which from its nature does not admit of being stored shall not ıed under this rule at any time less than twenty days before the time at which y to be fit to be cut or gathered

Debts and shares, etc.—(1) In the case of—

(*a*) a debt not secured by a negotiable instrument,

(*b*) a share in a corporation, or

(*c*) other movable property not in the possession of the defaulter except property deposited in, or in the custody of, any court,

the attachment shall be made by a written order prohibiting,—

(*i*) in the case of the debt—the creditor from recovering the debt and the debtor from making payment thereof until the further order of the Tax Recovery Officer,

(*ii*) in the case of the share—the person in whose name the share may be standing from transferring the same or receiving any dividend thereon,

(*iii*) in the case of the other movable property (except as aforesaid)—the person in possession of the same from giving it over to the defaulter.

(2) A copy of such order shall be affixed on some conspicuous part of the office of the Tax Recovery Officer, and another copy shall be sent, in the case of the debt, to the debtor, in the case of the share, to the proper officer of the corporation, and in the case of the other movable property (except as aforesaid), to the person in possession of the same

(3) A debtor prohibited under clause (*i*) of sub-rule (1) may pay the amount of his debt to the Tax Recovery Officer, and such payment shall discharge him as effectually as payment to the party entitled to receive the same

27. Attachment of decree.—(1) The attachment of a decree of a civil court for the payment of money or for sale in enforcement of a mortgage or charge shall be made by the issue to the civil court of a notice requesting the civil court to stay the execution of the decree unless and until—

(*i*) the Tax Recovery Officer cancels the notice, or

(*ii*) the Income-tax Officer or the defaulter applies to the court receiving such notice to execute the decree

(2) Where a civil court receives an application under clause (*ii*) of sub-rule (1), it shall, on the application of the Income-tax Officer or the defaulter and subject to the provisions of the Code of Civil Procedure, 1908 (V of 1908), proceed to execute the attached decree and apply the net proceeds in satisfaction of the certificate

(3) The Income-tax Officer shall be deemed to be the representative of the holder of the attached decree, and to be entitled to execute such attached decree in any manner lawful for the holder thereof

28. Share in movable property.—Where the property to be attached consists of the share or interest of the defaulter in movable property belonging to him and another as co-owners, the attachment shall be made by a notice to the defaulter prohibiting him from transferring the share or interest or charging it in any way

29. Salary of Government servants.—Attachment of the salary or allowances of servants of the Government or a local authority may be made in the manner provided by rule 48 of Order 21 of the First Schedule to the Code of Civil Procedure, 1908 (V of 1908), and the provisions of the said rule shall, for the purposes of this rule, apply subject to such modifications as may be necessary

30. Attachment of negotiable instrument.—Where the property is a negotiable instrument not deposited in a court nor in the custody of a public officer, the attachment shall be made by actual seizure, and the instrument shall be brought before the Tax Recovery Officer and held subject to his orders

31. Attachment of property in custody of court or public officer.—Where the property to be attached is in the custody of any court or public officer, the attachment

shall be made by a notice to such court or officer, requesting that such property, and any interest or dividend becoming payable thereon, may be held subject to the further orders of the Tax Recovery Officer by whom the notice is issued

Provided that, where such property is in the custody of a court, any question of title or priority arising between the Income-tax Officer and any other person, not being the defaulter, claiming to be interested in such property by virtue of any assignment, attachment or otherwise, shall be determined by such court

32. Attachment of partnership property.—(1) Where the property to be attached consists of an interest of the defaulter, being a partner, in the partnership property, the Tax Recovery Officer may make an order charging the share of such partner in the partnership property and profits with payment of the amount due under the certificate, and may, by the same or subsequent order, appoint a receiver of the share of such partner in the profits, whether already declared or accruing and of any other money which may become due to him in respect of the partnership, and direct accounts and inquiries and make an order for the sale of such interest or such other order as the circumstances of the case may require

(2) The other persons shall be at liberty at any time to redeem the interest charged or, in the case of a sale being directed, to purchase the same

33. Inventory.—In the case of attachment of movable property by actual seizure, the officer shall, after attachment of the property, prepare an inventory of all the property attached, specifying in it the place where it is lodged or kept, and shall forward the same to the Tax Recovery Officer and a copy of the inventory shall be delivered by the officer to the defaulter

34. Attachment not to be excessive.—The attachment by seizure shall not be excessive, that is to say, the property attached shall be as nearly as possible proportionate to the amount specified in the warrant

35. Seizure between sunrise and sunset.—Attachment by seizure shall be made after sunrise and before sunset and not otherwise.

36. Power to break open doors, etc.—The officer may break open any inner or outer door or window of any building and enter any building in order to seize any movable property if the officer has reasonable grounds to believe that such building contains movable property liable to seizure under the warrant and the officer has notified his authority and intention of breaking open if admission is not given He shall, however, give all reasonable opportunity to women to withdraw.

Sale

37. Sale.—The Tax Recovery Officer may direct that any movable property attached under this Schedule or such portion thereof as may seem necessary to satisfy the certificate shall be sold

38. Issue of proclamation.—When any sale of movable property is ordered by the Tax Recovery Officer, the Tax Recovery Officer shall issue a proclamation, in the language of the district, of the intended sale, specifying the time and place of sale and whether the sale is subject to confirmation or not

39. Proclamation how made.—(1) Such proclamation shall be made by beat of drum or other customary mode,—

(*a*) in the case of property attached by actual seizure—

(*i*) in the village in which the property was seized, or, if the property was seized in a town or city, then, in the locality in which it was seized, and

(ii) at such other places as the Tax Recovery Officer may direct,

(b) in the case of property attached otherwise than by actual seizure, in such places, if any, as the Tax Recovery Officer may direct

(2) A copy of the proclamation shall also be affixed in a conspicuous part of the office of the Tax Recovery Officer.

40. Sale after fifteen days.—Except where the property is subject to speedy and natural decay or when the expense of keeping it in custody is likely to exceed its value, no sale of movable property under this Schedule shall, without the consent in writing of the defaulter, take place until after the expiry of at least fifteen days calculated from the date on which a copy of the sale-proclamation was affixed in the office of the Tax Recovery Officer

41. Sale of agricultural produce.—(1) Where the property to be sold is agricultural produce, the sale shall be held,—

(a) if such produce is a growing crop—on or near the land on which such crop has grown, or

(b) if such produce has been cut or gathered—at or near the threshing-floor or place for treading out grain or the like, or fodder-stack, on or in which it is deposited

Provided that the Tax Recovery Officer may direct the sale to be held at the nearest place of public resort, if he is of opinion that the produce is thereby likely to sell to greater advantage

(2) Where, on the produce being put up for sale,—

(a) a fair price, in the estimation of the person holding the sale, is not offered for it, and

(b) the owner of the produce, or a person authorised to act on his behalf, applies to have the sale postponed till the next day or, if a market is held at the place of sale, the next market day,

the sale shall be postponed accordingly, and shall be then completed, whatever price may be offered for the produce

42. Special provisions relating to growing crops.—(1) Where the property to be sold is a growing crop and the crop from its nature admits of being stored but has not yet been stored, the day of the sale shall be so fixed as to admit of the crop being made ready for storing before the arrival of such day, and the sale shall not be held until the crop has been cut or gathered and is ready for storing

(2) Where the crop from its nature does not admit of being stored or can be sold to a greater advantage in an unripe stage (*e g* as green wheat), it may be sold before it is cut and gathered, and the purchaser shall be entitled to enter on the land, and to do all that is necessary for the purpose of tending or cutting or gathering the crop

43. Sale to be by auction.—The property shall be sold by public auction in one or more lots as the officer may consider advisable, and if the amount to be realised by sale is satisfied by the sale of a portion of the property, the sale shall be immediately stopped with respect to the remainder of the lots

44. Sale by public auction.—(1) Where movable property is sold by public auction, the price of each lot shall be paid at the time of sale or as soon after as the officer holding the sale directs and in default of payment the property shall forthwith be resold

(2) On payment of the purchase-money, the officer holding the sale shall grant a certificate specifying the property purchased, the price paid and the name of the purchaser, and the sale shall become absolute

(3) Where the movable property to be sold is a share in goods belonging to the defaulter and a co-owner, and two or more persons, of whom one is such co-owner, respectively bid the same sum for such property or for any lot, the bidding shall be deemed to be the bidding of the co-owner

45. Irregularity not to vitiate sale, but any person injured may sue.—No irregularity in publishing or conducting the sale of movable property shall vitiate the sale, but any person sustaining substantial injury by reason of such irregularity at the hand of any other person may institute a suit in a civil court against him for compensation, or (if such other person is the purchaser) for the recovery of the specific property and for compensation in default of such recovery

46. Negotiable instruments and shares in a corporation.—Notwithstanding anything contained in this Schedule, where the property to be sold is a negotiable instrument or a share in a corporation, the Tax Recovery Officer may, instead of directing the sale to be made by public auction, authorise the sale of such instrument or share through a broker

47. Order for payment of coin or currency notes to the Income-tax Officer.—Where the property attached is current coin or currency notes, the Tax Recovery Officer may, at any time during the continuance of the attachment, direct that such coin or notes, or a part thereof sufficient to satisfy the certificate, be paid over to the Income-tax Officer

PART III

Attachment and sale of immovable property

Attachment

48. Attachment.—Attachment of the immovable property of the defaulter shall be made by an order prohibiting the defaulter from transferring or charging the property in any way and prohibiting all persons from taking any benefit under such transfer or charge

49. Service of notice of attachment.—A copy of the order of attachment shall be served on the defaulter

50. Proclamation of attachment.—The order of attachment shall be proclaimed at some place on or adjacent to the property attached by beat of drum or other customary mode, and a copy of the order shall be affixed on a conspicuous part of the property and on the notice board of the office of the Tax Recovery Officer

51. Attachment to relate back from the date of service of notice.—Where any immovable property is attached under this Schedule, the attachment shall relate back to, and take effect from, the date on which the notice to pay the arrears, issued under this Schedule, was served upon the defaulter

Sale

52. Sale and proclamation of sale.—(1) T[illegible]x Recovery Officer may direct that any immovable property which has b[illegible] or such portion thereof as may seem necessary to satisfy the certificate, [illegible]

(2) Where any immovable property is ordered to be sold, the Tax Recovery Officer shall cause a proclamation of the intended sale to be made in the language of the district

53. Contents of proclamation.—A proclamation of sale of immovable property shall be drawn up after notice to the defaulter, and shall state the time and place of sale, and shall specify, as fairly and accurately as possible,—

(*a*) the property to be sold,

(*b*) the revenue, if any, assessed upon the property or any part thereof,

(*c*) the amount for the recovery of which the sale is ordered, [12]*

[12][(*cc*) the reserve price, if any, below which the property may not be sold, and]

(*d*) any other thing which the Tax Recovery Officer considers it material for a purchaser to know, in order to judge the nature and value of the property

54. Mode of making proclamation.—(1) Every proclamation for the sale of immovable property shall be made at some place on or near such property by beat of drum or other customary mode, and a copy of the proclamation shall be affixed on a conspicuous part of the property and also upon a conspicuous part of the office of the Tax Recovery Officer

(2) Where the Tax Recovery Officer so directs, such proclamation shall also be published in the Official Gazette or in a local newspaper, or in both; and the cost of such publication shall be deemed to be costs of the sale.

(3) Where the property is divided into lots for the purpose of being sold separately, it shall not be necessary to make a separate proclamation for each lot, unless proper notice of the sale cannot, in the opinion of the Tax Recovery Officer, otherwise be given

55. Time of sale.—No sale of immovable property under this Schedule shall, without the consent in writing of the defaulter, take place until after the expiration of at least thirty days calculated from the date on which a copy of the proclamation of sale has been affixed on the property or in the office of the Tax Recovery Officer, whichever is later

56. Sale to be by auction.—The sale shall be by public auction to the highest bidder and shall be subject to confirmation by the Tax Recovery Officer:

[13][Provided that no sale under this rule shall be made if the amount bid by the highest bidder is less than the reserve price, if any, specified under clause (*cc*) of rule 53]

57. Deposit by purchaser and resale in default.—(1) On every sale of immovable property, the person declared to be the purchaser shall pay, immediately after such declaration, a deposit of twenty-five per cent on the amount of his purchase money, to the officer conducting the sale; and, in default of such deposit, the property shall forthwith be resold

(2) The full amount of purchase money payable shall be paid by the purchaser to the Tax Recovery Officer on or before the fifteenth day from the date of the sale of the property

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[12] "And" omitted, and cl (*cc*) inserted, by s 81, Taxation Laws (Amendment) Act, 1975, w. e f. 1-10-1975

[13] Inserted, *ibid*, w e f 1-10-1975

58. Procedure in default of payment.—In default of payment within the period mentioned in the preceding rule, the deposit may, if the Tax Recovery Officer thinks fit, after defraying the expenses of the sale, be forfeited to the Government, and the property shall be resold, and the defaulting purchaser shall forfeit all claims to the property or to any part of the sum for which it may subsequently be sold

59. Authority to bid.—[14][(1) Where the sale of a property, for which a reserve price has been specified under clause (*cc*) of rule 53, has been postponed for want of a bid of an amount not less than such reserve price, it shall be lawful for an Income-tax Officer, if so authorised by the Commissioner in this behalf, to bid for the property on behalf of the Central Government at any subsequent sale]

[14][(2)] All persons bidding at the sale shall be required to declare if they are bidding on their own behalf or on behalf of their principals In the latter case, they shall be required to deposit their authority, and in default their bids shall be rejected

60. Application to set aside sale of immovable property on deposit.—(1) Where immovable property has been sold in execution of a certificate, the defaulter, or any person whose interests are affected by the sale, may, at any time within thirty days from the date of the sale, apply to the Tax Recovery Officer to set aside the sale, on his depositing— R 119A

(*a*) for payment to the Income-tax Officer, the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered, with interest thereon at the rate of [15][twelve] per cent per annum, calculated from the date of the proclamation of sale to the date when the deposit is made, and

(*b*) for payment to the purchaser, as penalty, a sum equal to five per cent of the purchase-money, but not less than one rupee

(2) Where a person makes an application under rule 61 for setting aside the sale of his immovable property, he shall not, unless he withdraws that application, be entitled to make or prosecute an application under this rule

61. Application to set aside sale of immovable property on ground of non-service of notice or irregularity.—Where immovable property has been sold in execution of a certificate, the Income-tax Officer, the defaulter, or any person whose interests are affected by the sale, may, at any time within thirty days from the date of the sale, apply to the Tax Recovery Officer to set aside the sale of the immovable property on the ground that notice was not served on the defaulter to pay the arrears as required by this Schedule or on the ground of a material irregularity in publishing or conducting the sale

Provided that—

(*a*) no sale shall be set aside on any such ground unless the Tax Recovery Officer is satisfied that the applicant has sustained substantial injury by reason of the non-service or irregularity, and

(*b*) an application made by a defaulter under this rule shall be disallowed unless the applicant deposits the amount recoverable from him in execution of the certificate

62. Setting aside sale where defaulter has no saleable interest.—At any time within thirty days of the sale, the purchaser may apply to the Tax Recovery Officer

[14] Inserted by s 81, Taxation Laws (Amendment) Act, 1975, w e f 1-10-1975
[15] "Nine" substituted for "six" by s 56, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971, and "twelve" for "nine" by s 25, F Act, 1972, w e f 1-4-1972 See p 314, f n 20

to set aside the sale on the ground that the defaulter had no saleable interest in the property sold

63. Confirmation of sale.—(1) Where no application is made for setting aside the sale under the foregoing rules or where such an application is made and disallowed by the Tax Recovery Officer, the Tax Recovery Officer shall (if the full amount of the purchase-money has been paid) make an order confirming the sale, and, thereupon, the sale shall become absolute

(2) Where such application is made and allowed, and where, in the case of an application made to set aside the sale on deposit of the amount and penalty and charges, the deposit is made within thirty days from the date of the sale, the Tax Recovery Officer shall make an order setting aside the sale:

Provided that no order shall be made unless notice of the application has been given to the persons affected thereby

64. Return of purchase-money in certain cases.—Where a sale of immovable property is set aside, any money paid or deposited by the purchaser on account of the purchase, together with the penalty, if any, deposited for payment to the purchaser, and such interest as the Tax Recovery Officer may allow, shall be paid to the purchaser

65. Sale certificate.—(1) Where a sale of immovable property has become absolute, the Tax Recovery Officer shall grant a certificate specifying the property sold, and the name of the person who at the time of sale is declared to be the purchaser

(2) Such certificate shall state the date on which the sale became absolute

66. Postponement of sale to enable defaulter to raise amount due under certificate.—(1) Where an order for the sale of immovable property has been made, if the defaulter can satisfy the Tax Recovery Officer that there is reason to believe that the amount of the certificate may be raised by the mortgage or lease or private sale of such property, or some part thereof, or of any other immovable property of the defaulter, the Tax Recovery Officer may, on his application, postpone the sale of the property comprised in the order for sale, on such terms and for such period as he thinks proper, to enable him to raise the amount

(2) In such case, the Tax Recovery Officer shall grant a certificate to the defaulter, authorising him, within a period to be mentioned therein, and notwithstanding anything contained in this Schedule, to make the proposed mortgage, lease or sale

Provided that all moneys payable under such mortgage, lease or sale shall be paid, not to the defaulter, but to the Tax Recovery Officer

Provided also that no mortgage, lease or sale under this rule shall become absolute until it has been confirmed by the Tax Recovery Officer

67. Fresh proclamation before resale.—Every resale of immovable property, in default of payment of the purchase-money within the period allowed for such payment, shall be made after the issue of a fresh proclamation in the manner and for the period hereinbefore provided for the sale

68. Bid of co-sharer to have preference.—Where the property sold is a share of undivided immovable property, and two or more persons, of whom one is a co-sharer, respectively bid the same sum for such property or for any lot, the bid shall be deemed to be the bid of the co-sharer

[16][68A. **Acceptance of property in satisfaction of amount due from the defaulter.**—(1) Without prejudice to the provisions contained in this Part, an Income-tax Officer, duly authorised by the Commissioner in this behalf, may accept in satisfaction of the whole or any part of the amount due from the defaulter the property, the sale of which has been postponed for the reason mentioned in sub-rule (1) of rule 59, at such price as may be agreed upon between the Income-tax Officer and the defaulter.

(2) Where any property is accepted under sub-rule (1), the defaulter shall deliver possession of such property to the Income-tax Officer and on the date the possession of the property is delivered to the Income-tax Officer, the property shall vest in the Central Government and the Central Government shall, where necessary, intimate the concerned Registering Officer appointed under the Registration Act, 1908 (XVI of 1908), accordingly

(3) Where the price of the property agreed upon under sub-rule (1) exceeds the amount due from the defaulter, such excess shall be paid by the Income-tax Officer to the defaulter within a period of three months from the date of delivery of possession of the property and where the Income-tax Officer fails to pay such excess within the period aforesaid, the Central Government shall, for the period commencing on the expiry of such period and ending with the date of payment of the amount remaining unpaid, pay simple interest at twelve per cent per annum to the defaulter on such amount]

PART IV

Appointment of receiver

69. Appointment of receiver for business.—(1) Where the property of a defaulter consists of a business, the Tax Recovery Officer may attach the business and appoint a person as receiver to manage the business

(2) Attachment of a business under this rule shall be made by an order prohibiting the defaulter from transferring or charging the business in any way and prohibiting all persons from taking any benefit under such transfer or charge, and intimating that the business has been attached under this rule A copy of the order of attachment shall be served on the defaulter, and another copy shall be affixed on a conspicuous part of the premises in which the business is carried on and on the notice board of the office of the Tax Recovery Officer

70. Appointment of receiver for immovable property.—Where immovable property is attached, the Tax Recovery Officer may, instead of directing a sale of the property, appoint a person as receiver to manage such property

71. Powers of receiver.—(1) Where any business or other property is attached and taken under management under the foregoing rules, the receiver shall, subject to the control of the Tax Recovery Officer, have such powers as may be necessary for the proper management of the property and the realisation of the profits, or rents and profits, thereof

(2) The profits, or rents and profits, of such business or other property, shall, after defraying the expenses of management, be adjusted towards discharge of the arrears, and the balance, if any, shall be paid to the defaulter

72. Withdrawal of management.—The attachment and management under the foregoing rules may be withdrawn at any time at the discretion of the Tax Recovery Officer, or if the arrears are discharged by receipt of such profits and rents or are otherwise paid

[16] Inserted by s 81, Taxation Laws (Amendment) Act, 1975, w e f 1-10-1975

PART V

Arrest and detention of the defaulter

73 **Notice to show cause.**—(1) No order for the arrest and detention in civil prison of a defaulter shall be made unless the Tax Recovery Officer has issued and served a notice upon the defaulter calling upon him to appear before him on the date specified in the notice and to show cause why he should not be committed to the civil prison, and unless the Tax Recovery Officer, for reasons recorded in writing, is satisfied—

(*a*) that the defaulter, with the object or effect of obstructing the execution of the certificate, has, after the receipt of the certificate in the office of the Tax Recovery Officer, dishonestly transferred, concealed, or removed any part of his property, or

(*b*) that the defaulter has, or has had since the receipt of the certificate in the office of the Tax Recovery Officer, the means to pay the arrears or some substantial part thereof and refuses or neglects or has refused or neglected to pay the same

(2) Notwithstanding anything contained in sub-rule (1), a warrant for the arrest of the defaulter may be issued by the Tax Recovery Officer if the Tax Recovery Officer is satisfied, by affidavit or otherwise, that with the object or effect of delaying the execution of the certificate, the defaulter is likely to abscond or leave the local limits of the jurisdiction of the Tax Recovery Officer

(3) Where appearance is not made in obedience to a notice issued and served under sub-rule (1), the Tax Recovery Officer may issue a warrant for the arrest of the defaulter

[17][(3A) A warrant of arrest issued by a Tax Recovery Officer under sub-rule (2) or sub-rule (3) may also be executed by any other Tax Recovery Officer within whose jurisdiction the defaulter may for the time being be found]

(4) Every person arrested in pursuance of a warrant of arrest under [18][this rule] shall be brought before the Tax Recovery Officer [17][issuing the warrant] as soon as practicable and in any event within twenty-four hours of his arrest (exclusive of the time required for the journey)

Provided that, if the defaulter pays the amount entered in the warrant of arrest as due and the costs of the arrest to the officer arresting him, such officer shall at once release him

[17][*Explanation* —For the purposes of this rule, where the defaulter is a Hindu undivided family, the *karta* thereof shall be deemed to be the defaulter]

74. **Hearing.**—When a defaulter appears before the Tax Recovery Officer in obedience to a notice to show cause or is brought before the Tax Recovery Officer under rule 73, the Tax Recovery Officer shall proceed to hear the Income-tax Officer and take all such evidence as may be produced by him in support of execution by arrest, and shall then give the defaulter an opportunity of showing cause why he should not be committed to the civil prison

75. **Custody pending hearing.**—Pending the conclusion of the inquiry, the Tax Recovery Officer may, in his discretion, order the defaulter to be detained in the custody of such officer as the Tax Recovery Officer may think fit or release him on his

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[17] Inserted by s 81, Taxation Laws (Amendment) Act, 1975, w e f 1-10-1975
[18] Substituted for "sub-rule (2) or sub-rule (3)", *ibid*, w e f 1-10-1975

furnishing security to the satisfaction of the Tax Recovery Officer for his appearance when required

76. Order of detention.—(1) Upon the conclusion of the inquiry, the Tax Recovery Officer may make an order for the detention of the defaulter in the civil prison and shall in that event cause him to be arrested if he is not already under arrest

Provided that in order to give the defaulter an opportunity of satisfying the arrears, the Tax Recovery Officer may, before making the order of detention, leave the defaulter in the custody of the officer arresting him or of any other officer for a specified period not exceeding 15 days, or release him on his furnishing security to the satisfaction of the Tax Recovery Officer for his appearance at the expiration of the specified period if the arrears are not so satisfied

(2) When the Tax Recovery Officer does not make an order of detention under sub-rule (1) he shall, if the defaulter is under arrest, direct his release

77. Detention in and release from prison.—(1) Every person detained in the civil prison in execution of a certificate may be so detained,—

(*a*) where the certificate is for a demand of an amount exceeding two hundred and fifty rupees—for a period of six months, and

(*b*) in any other case—for a period of six weeks

Provided that he shall be released from such detention—

(*i*) on the amount mentioned in the warrant for his detention being paid to the officer-in-charge of the civil prison, or

(*ii*) on the request of the Income-tax Officer who has issued the certificate or of the Tax Recovery Officer on any ground other than the grounds mentioned in rules 78 and 79

Provided that where he is to be released on the request of the Income-tax Officer, he shall not so be released without the order of the Tax Recovery Officer

(2) A defaulter released from detention under this rule shall not, merely by reason of his release, be discharged from his liability for the arrears, but he shall not be liable to be rearrested under the certificate in execution of which he was detained in the civil prison

78. Release.—(1) The Tax Recovery Officer may order the release of a defaulter who has been arrested in execution of a certificate upon being satisfied that he has disclosed the whole of his property and has placed it at the disposal of the Tax Recovery Officer and that he has not committed any act of bad faith

(2) If the Tax Recovery Officer has ground for believing the disclosure made by a defaulter under sub-rule (1) to have been untrue, he may order the rearrest of the defaulter in execution of the certificate, but the period of his detention in the civil prison shall not in the aggregate exceed that authorised by rule 77

79. Release on ground of illness.—(1) At any time after a warrant for the arrest of a defaulter has been issued, the Tax Recovery Officer may cancel it on the ground of his serious illness

(2) Where a defaulter has been arrested, the Tax Recovery Officer may release him if, in the opinion of the Tax Recovery Officer, he is not in a fit state of health to be detained in the civil prison

(3) Where a defaulter has been committed to the civil prison, he may be released therefrom by the Tax Recovery Officer on the ground of the existence of any infectious or contagious disease, or on the ground of his suffering from any serious illness

(4) A defaulter released under this rule may be rearrested, but the period of his detention in the civil prison shall not in the aggregate exceed that authorised by rule 77

80. Entry into dwelling house.—For the purpose of making an arrest under this Schedule—

(*a*) no dwelling house shall be entered after sunset and before sunrise,

(*b*) no outer door of a dwelling house shall be broken open unless such dwelling house or a portion thereof is in the occupancy of the defaulter and he or other occupant of the house refuses or in any way prevents access thereto, but, when the person executing any such warrant has duly gained access to any dwelling house, he may break open the door of any room or apartment if he has reason to believe that the defaulter is likely to be found there,

(*c*) no room, which is in the actual occupancy of a woman who, according to the customs of the country, does not appear in public, shall be entered into unless the officer authorised to make the arrest has given notice to her that she is at liberty to withdraw and has given her reasonable time and facility for withdrawing

81. Prohibition against arrest of women or minors, etc.—The Tax Recovery Officer shall not order the arrest and detention in the civil prison of—

(*a*) a woman, or

(*b*) any person who, in his opinion, is a minor or of unsound mind

PART VI

Miscellaneous

82. Officers deemed to be acting judicially.—Every [19][Tax Recovery Commissioner,] Tax Recovery Officer or other officer acting under this Schedule shall, in the discharge of his functions under this Schedule, be deemed to be acting judicially within the meaning of the Judicial Officers Protection Act, 1850 (XVIII of 1850)

83. Power to take evidence.—Every [19][Tax Recovery Commissioner,] Tax Recovery Officer or other officer acting under the provisions of this Schedule shall have the powers of a civil court while trying a suit for the purpose of receiving evidence, administering oaths, enforcing the attendance of witnesses and compelling the production of documents

84. Continuance of certificate—No certificate shall cease to be in force by reason of the death of the defaulter

85. Procedure on death of defaulter.—If at any time after the issue of the certificate by the Income-tax Officer to the Tax Recovery Officer the defaulter dies, the proceedings under this Schedule (except arrest and detention) may be continued against the legal representative of the defaulter, and the provisions of this Schedule shall apply as if the legal representative were the defaulter

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[19] Inserted by s 29, F (No 2) Act, 1971, w e f 1-1-1972

86. Appeals.—[20][(1) An appeal from any original order passed by the Tax Recovery Officer under this Schedule, not being an order which is conclusive, shall lie—

(*a*) in the case of a Tax Recovery Officer, being a Collector or an Additional Collector, to the revenue authority to which appeals ordinarily lie against the orders of a Collector under the law relating to land revenue of the State concerned,

(*b*) in the case of a Tax Recovery Officer, being an officer referred to in sub-clause (*ii*) of clause (*44*) of section 2, to the revenue authority to which an appeal or an application for revision would ordinarily lie, if the order passed by him were the order under the law relating to land revenue or other public demand for the time being in force in the State concerned, and

(*c*) in the case of a Tax Recovery Officer, being an officer referred to in sub-clause (*iii*) of clause (*44*) of section 2, to the Tax Recovery Commissioner]

(2) Every appeal under this rule must be presented within thirty days from the date of the order appealed against

(3) Pending the decision of any appeal, execution of the certificate may be stayed if the appellate authority so directs, but not otherwise

[21][(4) Notwithstanding anything contained in sub-rule (1), where a Tax Recovery Commissioner is authorised to exercise powers as such in respect of any area, then,—

(*a*) all appeals against the orders passed before the date of such authorisation by any Tax Recovery Officer authorised to exercise powers as such in respect of that area or an area which is included in that area, shall lie to such Tax Recovery Commissioner, and

(*b*) any proceeding by way of appeal against any orders referred to in clause (*a*) pending on the date mentioned in that clause before an appellate authority referred to in clause (*a*) or clause (*b*) of sub-rule (1) shall stand transferred to such Tax Recovery Commissioner for disposal]

87. Review.—Any order passed under this Schedule may, after notice to all persons interested, be reviewed by the [21][Tax Recovery Commissioner, Tax Recovery Officer or other] officer who made the order, or by his successor in office, on account of any mistake apparent from the record

88. Recovery from surety.—Where any person has under this Schedule become surety for the amount due by the defaulter, he may be proceeded against under this Schedule as if he were the defaulter

89. Penalties.—Whoever fraudulently removes, conceals, transfers or delivers to any person any property or any interest therein, intending thereby to prevent that property or interest therein, from being taken in execution of a certificate, shall be deemed to have committed an offence punishable under section 206 of the Indian Penal Code (XLV of 1860)

90. Subsistence allowance.—(1) When a defaulter is arrested or detained in the civil prison, the sum payable for the subsistence of the defaulter from the time of arrest until he is released shall be borne by the Income-tax Officer

(2) Such sum shall be calculated on the scale fixed by the State Government for the subsistence of judgment-debtors arrested in execution of a decree of a civil court

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[20] Retrospectively substituted by s 20, F Act, 1963, and further substituted by s 29, F (No 2) Act, 1971, w e f 1-1-1972

[21] Inserted by s 29, F (No 2) Act, 1971, w e f 1-1-1972

(3) Sums payable under this rule shall be deemed to be costs in the proceeding

Provided that the defaulter shall not be detained in the civil prison or arrested on account of any sum so payable

91. Forms.—The Board may prescribe the form to be used for any order, notice, warrant, or certificate to be issued under this Schedule

92. Power to make rules.—(1) The Board may make rules, consistent with the provisions of this Act, regulating the procedure to be followed by [22][Tax Recovery Commissioners,] Tax Recovery Officers and other officers acting under this Schedule

(2) In particular, and without prejudice to the generality of the power conferred by sub-rule (1), such rules may provide for all or any of the following matters, namely —

(*a*) the area within which [22][Tax Recovery Commissioners or] Tax Recovery Officers may exercise jurisdiction,

(*b*) the manner in which any property sold under this Schedule may be delivered,

(*c*) the execution of a document or the endorsement of a negotiable instrument or a share in a corporation, by or on behalf of the Tax Recovery Officer, where such execution or endorsement is required to transfer such negotiable instrument or share to a person who has purchased it under a sale under this Schedule,

(*d*) the procedure for dealing with resistance or obstruction offered by any person to a purchaser of any immovable property sold under this Schedule, in obtaining possession of the property,

(*e*) the fees to be charged for any process issued under this Schedule,

(*f*) the scale of charges to be recovered in respect of any other proceeding taken under this Schedule,

(*g*) recovery of poundage fee,

(*h*) the maintenance and custody, while under attachment, of livestock or other movable property, the fees to be charged for such maintenance and custody, the sale of such livestock or property, and the disposal of proceeds of such sale,

(*i*) the mode of attachment of business

93. Saving regarding charge.—Nothing in this Schedule shall affect any provision of this Act whereunder the tax is a first charge upon any asset

THE THIRD SCHEDULE

PROCEDURE FOR DISTRAINT BY INCOME-TAX OFFICER

[See section 226(5)]

Distraint and sale —Where any distraint and sale of movable property are to be effected by any Income-tax Officer authorised for the purpose, such distraint and sale shall be made, as far as may be, in the same manner as attachment and sale of any movable property attachable by actual seizure, and the provisions of the Second Schedule relating to attachment and sale shall, so far as may be, apply in respect of such distraint and sale

[22] Inserted by s 29, F (No 2) Act, 1971, w e f 1-1-1972

THE FOURTH SCHEDULE

PART A

Recognised provident funds

Rr 67-81

[See sections 2(*38*), 10(*12*), 10(*25*), 36(1)(*iv*), 87(1)(*d*)*, 111, 192(4)]

1. Application of Part.—This Part shall not apply to any provident fund to which the Provident Funds Act, 1925 (XIX of 1925), applies

2. Definitions.—In this Part, unless the context otherwise requires,—

(*a*) "employer" means any person who maintains a provident fund for the benefit of his or its employees, being—

(*i*) a Hindu undivided family, company, firm or other association of persons, or

(*ii*) an individual engaged in a business or profession the profits and gains whereof are assessable to income-tax under the head "Profits and gains of business or profession",

(*b*) "employee" means an employee participating in a provident fund, but does not include a personal or domestic servant,

(*c*) "contribution" means any sum credited by or on behalf of any employee out of his salary, or by an employer out of his own monies, to the individual account of an employee, but does not include any sum credited as interest,

(*d*) "balance to the credit of an employee" means the total amount to the credit of his individual account in a provident fund at any time,

(*e*) "annual accretion", in relation to the balance to the credit of an employee, means the increase to such balance in any year, arising from contributions and interest,

(*f*) "accumulated balance due to an employee" means the balance to his credit, or such portion thereof as may be claimable by him under the regulations of the fund, on the day he ceases to be an employee of the employer maintaining the fund,

(*g*) "regulations of a fund" means the special body of regulations governing the constitution and administration of a particular provident fund, and

(*h*) "salary" includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites

3. According and withdrawal of recognition.—(1) The Commissioner may accord recognition to any provident fund which, in his opinion, satisfies the conditions prescribed in rule 4 and the rules made by the Board in this behalf, and may, at any time, withdraw such recognition if, in his opinion, the provident fund contravenes any of those conditions

(2) An order according recognition shall take effect on such date as the Commissioner may fix in accordance with any rules the Board may make in this behalf, such date not being later than the last day of the financial year in which the order is made

(3) An order withdrawing recognition shall take effect from the date on which it is made

* "80C(2)(*d*)" should now be substituted for "87(1)(*d*)"

(4) An order according recognition to a provident fund shall not, unless the Commissioner otherwise directs, be affected by the fact that the fund is subsequently amalgamated with another provident fund on the occurrence of an amalgamation of the undertakings in connection with which the two funds are maintained, or that it subsequently absorbs the whole or a part of another provident fund belonging to an undertaking which is wholly or in part transferred to or merged in the undertaking of the employer maintaining the first-mentioned fund.

4. **Conditions to be satisfied by recognised provident funds.**—In order that a provident fund may receive and retain recognition, it shall, subject to the provisions of rule 5, satisfy the conditions set out below and any other conditions which the Board may, by rules, specify—

(*a*) all employees shall be employed in India, or shall be employed by an employer whose principal place of business is in India;

(*b*) the contributions of an employee in any year shall be a definite proportion of his salary for that year, and shall be deducted by the employer from the employee's salary in that proportion, at each periodical payment of such salary in that year, and credited to the employee's individual account in the fund,

(*c*) the contributions of an employer to the individual account of an employee in any year shall not exceed the amount of the contributions of the employee in that year, and shall be credited to the employee's individual account at intervals not exceeding one year,

(*d*) the fund shall be vested in two or more trustees or in the Official Trustee under a trust which shall not be revocable, save with the consent of all the beneficiaries,

(*e*) the fund shall consist of contributions as above specified, received by the trustees, of accumulations thereof, and of interest credited in respect of such contributions and accumulations, and of securities purchased therewith and of any capital gains arising from the transfer of capital assets of the fund, and of no other sums,

(*f*) the employer shall not be entitled to recover any sum whatsoever from the fund, save in cases where the employee is dismissed for misconduct or voluntarily leaves his employment otherwise than on account of ill-health or other unavoidable cause before the expiration of the term of service specified in this behalf in the regulations of the fund:

Provided that in such cases the recoveries made by the employer shall be limited to the contributions made by him to the individual account of the employee, and to interest credited in respect of such contributions in accordance with the regulations of the fund and the accumulations thereof,

(*g*) the accumulated balance due to an employee shall be payable on the day he ceases to be an employee of the employer maintaining the fund,

(*h*) save as provided in clause (*g*) or in accordance with such conditions and restrictions as the Board may, by rules, specify, no portion of the balance to the credit of an employee shall be payable to him

5. **Relaxation of conditions.**—(1) Notwithstanding anything contained in clause (*a*) of rule 4 the Commissioner may, if he thinks fit, and subject to such conditions, if any, as he thinks proper to attach to the recognition, accord recognition to a fund maintained by an employer whose principal place of business is not in India, provided the proportion of employees employed outside India does not exceed ten per cent

(2) Notwithstanding anything contained in clause (*b*) of rule 4, an employee who retains his employment while serving in the armed forces of the Union or when taken into or employed in the national service under any law for the time being in force, may, whether he receives from the employer any salary or not, contribute to the fund during his service in the armed forces of the Union or while so taken into or employed in the national service a sum not exceeding the amount he would have contributed had he continued to serve the employer

(3) Notwithstanding anything contained in clause (*e*) or clause (*g*) of rule 4,—

(*a*) at the request made in writing by the employee who ceases to be an employee of the employer maintaining the fund, the trustees of the fund may consent to retain the whole or any part of the accumulated balance due to the employee to be drawn by him at any time on demand,

(*b*) where the accumulated balance due to an employee who has ceased to be an employee is retained in the fund in accordance with the preceding clause, the fund may consist also of interest in respect of such accumulated balance,

[23][(*c*) the fund may also consist of any amount transferred from the individual account of an employee in any recognised provident fund maintained by his former employer and the interest in respect thereof]

(4) Subject to any rules which the Board may make in this behalf, the Commissioner may, in respect of any particular fund, relax the provisions of clause (*c*) of rule 4,—

(*a*) so as to permit the payment of larger contributions by an employer to the individual accounts of employees whose salaries do not in each case exceed five hundred rupees per mensem, and

(*b*) so as to permit the crediting by employers to the individual accounts of employees of periodical bonuses or other contributions of a contingent nature, where the calculation and payment of such bonuses or other contributions is provided for on definite principles by the regulations of the fund

(5) Notwithstanding anything contained in clause (*h*) of rule 4, in order to enable an employee to pay the amount of tax assessed on his total income as determined under sub-rule (4) of rule 11, he shall be entitled to withdraw from the balance to his credit in the recognised provident fund a sum not exceeding the difference between such amount and the amount to which he would have been assessed if the transferred balance referred to in sub-rule (2) of rule 11 had not been included in his total income

6. Employer's annual contributions, when deemed to be income received by employee.—That portion of the annual accretion in any previous year to the balance at the credit of an employee participating in a recognised provident fund as consists of—

(*a*) contributions made by the employer in excess of ten per cent of the salary of the employee, and

(*b*) interest credited on the balance to the credit of the employee in so far as it exceeds one-third of the salary of the employee or is allowed at a rate exceeding such rate as may be fixed by the Central Government in this behalf by notification in the Official Gazette,

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[23] Inserted by s 12, F Act, 1974, w e f 1-4-1974

shall be deemed to have been received by the employee in that previous year and shall be included in his total income for that previous year, and shall be liable to income-tax [24]* *

[25][7. **Exemption for employee's contributions.**—An employee participating in a recognised provident fund shall, in respect of his own contributions to his individual account in the fund in the previous year, be entitled to a deduction in the computation of his total income of an amount determined in accordance with [1][section 80C]]

8. **Exclusion from total income of accumulated balance.**—The accumulated balance due and becoming payable to an employee participating in a recognised provident fund shall be excluded from the computation of his total income—

(*i*) if he has rendered continuous service with his employer for a period of five years or more, or

(*ii*) if, though he has not rendered such continuous service, the service has been terminated by reason of the employee's ill-health, or by the contraction or discontinuance of the employer's business or other cause beyond the control of the employee, [2][or]

[2][(*iii*) if, on the cessation of his employment, the employee obtains employment with any other employer, to the extent the accumulated balance due and becoming payable to him is transferred to his individual account in any recognised provident fund maintained by such other employer

Explanation—Where the accumulated balance due and becoming payable to an employee participating in a recognised provident fund maintained by his employer includes any amount transferred from his individual account in any other recognised provident fund or funds maintained by his former employer or employers, then, in computing the period of continuous service for the purposes of clause (*i*) or clause (*ii*) the period or periods for which such employee rendered continuous service under his former employer or employers aforesaid shall be included]

9. **Tax on accumulated balance.**—(1) Where the accumulated balance due to an employee participating in a recognised provident fund is included in his total income owing to the provisions of rule 8 not being applicable, the Income-tax Officer shall calculate the total of the various sums of [3][tax] which would have been payable by the employee in respect of his total income for each of the years concerned if the fund had not been a recognised provident fund, and the amount by which such total exceeds the total of all sums paid by or on behalf of such employee by way of tax for such years shall be payable by the employee in addition to any other [3][tax] for which he may be liable for the previous year in which the accumulated balance due to him becomes payable

(2) Where the accumulated balance due to an employee participating in a recognised provident fund which is not included in his total income under the provisions of rule 8 becomes payable, an amount equal to the aggregate of the amounts of super-tax on annual accretions that would have been payable under section 58E of the Indian Income-tax Act, 1922 (XI of 1922), for any assessment year up to and

[24] "And super-tax" omitted by s 66, F Act, 1965, w e f 1-4-1965
[25] Substituted, *ibid*, w e f 1-4-1965
[1] Substituted for "section 80A or, as the case may be, to a deduction from the amount of income-tax with which he is chargeable on his total income of an amount of income-tax determined in accordance with section 87" by s 33 and 3rd Sch, F (No 2) Act, 1967, w e f 1-4-1968
[2] Inserted by s 12, F Act, 1974, w e f 1-4-1975
[3] Substituted for "income-tax and super-tax" by s 66, F Act, 1965, w e f 1-4-1965

including the assessment year 1932-1933, if the Indian Income-tax (Second Amendment) Act, 1933 (XVIII of 1933), had come into force on the 15th day of March, 1930, shall be payable by the employee in addition to any other tax payable by him for the previous year in which such balance becomes payable

10. Deduction at source of tax payable on accumulated balance.—The trustees of a recognised provident fund, or any person authorised by the regulations of the fund to make payment of accumulated balances due to employees, shall, in cases where sub-rule (1) of rule 9 applies, at the time an accumulated balance due to an employee is paid, deduct therefrom the amount payable under that rule and all the provisions of Chapter XVII-B shall apply as if the accumulated balance were income chargeable under the head "Salaries"

11. Treatment of balance in newly recognised provident fund.—(1) Where recognition is accorded to a provident fund with existing balances, an account shall be made of the fund up to the day immediately preceding the day on which the recognition takes effect, showing the balance to the credit of each employee on such day, and containing such further particulars as the Board may prescribe

(2) The account shall also show in respect of the balance to the credit of each employee the amount thereof which is to be transferred to that employee's account in the recognised provident fund, and such amount (hereinafter called his transferred balance) shall be shown as the balance to his credit in the recognised provident fund on the date on which the recognition of the fund takes effect, and sub-rule (4) of this rule and sub-rule (5) of rule 5 shall apply thereto

(3) Any portion of the balance to the credit of an employee in the existing fund which is not transferred to the recognised fund shall be excluded from the accounts of the recognised fund and shall be liable to income-tax [4]* * in accordance with the provisions of this Act, other than this Part

(4) Subject to such rules as the Board may make in this behalf, the Income-tax Officer shall make a calculation of the aggregate of all sums comprised in a transferred balance which would have been liable to income-tax if this Part had been in force from the date of the institution of the fund, without regard to any tax which may have been paid on any sum, and such aggregate (if any) shall be deemed to be income received by the employee in the previous year in which the recognition of the fund takes effect and shall be included in the employee's total income for that previous year, and, for the purposes of assessment, the remainder of the transferred balance shall be disregarded, but no other exemption or relief, by way of refund or otherwise, shall be granted in respect of any sum comprised in such transferred balance

Provided that, in cases of serious accounting difficulty, the Commissioner may, subject to the said rules, make a summary calculation of such aggregate

(5) Nothing in this rule shall affect the rights of the persons administering an unrecognised provident fund or dealing with it, or with the balance to the credit of any individual employee before recognition is accorded, in any manner which may be lawful

12. Accounts of recognised provident funds.—(1) The accounts of a recognised provident fund shall be maintained by the trustees of the fund and shall be in such form and for such periods, and shall contain such particulars, as the Board may prescribe

(2) The accounts shall be open to inspection at all reasonable times by Income-tax authorities, and the trustees shall furnish to the Income-tax Officer such abstracts thereof as the Board may prescribe

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[4] "And super-tax" omitted by s 66, F Act, 1965, w e f 1-4-1965

13. Appeals.—(1) An employer objecting to an order of the Commissioner refusing to recognise or an order withdrawing recognition from a provident fund may appeal, within sixty days of such order, to the Board.

(2) The appeal shall be in such form and shall be verified in such manner and shall be subject to the payment of such fee as the Board may prescribe

14. Treatment of fund transferred by employer to trustee.—(1) Where an employer, who maintains a provident fund (whether recognised or not) for the benefit of his employees and has not transferred the fund or any portion of it, transfers such fund or portion to trustees in trust for the employees participating in the fund, the amount so transferred shall be deemed to be of the nature of capital expenditure

(2) When an employee participating in such fund is paid the accumulated balance due to him therefrom, any portion of such balance as represents his share in the amount so transferred to the trustees (without addition of interest, and exclusive of the employee's contributions and interest thereon) shall, if the employer has made effective arrangements to secure that tax shall be deducted at source from the amount of such share when paid to the employee, be deemed to be an expenditure by the employer within the meaning of section 37, incurred in the previous year in which the accumulated balance due to the employee is paid

Rr 67-81 **15. Provisions relating to rules.**—(1) In addition to any power conferred by this Part, the Board may make rules—

(*a*) prescribing the statements and other information to be submitted along with an application for recognition,

(*b*) limiting the contributions to a recognised provident fund by employees of a company who are shareholders in the company,

[5][(*bb*) regulating the investment or deposit of the moneys of a recognised provident fund

Provided that no rule made under this clause shall require the investment of more than fifty per cent of the moneys of such fund in Government Securities as defined in section 2 of the Public Debt Act, 1944 (XVIII of 1944),]

(*c*) providing for the assessment by way of penalty of any consideration received by an employee for an assignment of, or creation of a charge upon, his beneficial interest in a recognised provident fund,

(*d*) determining the extent to and the manner in which exemption from payment of [6][tax] may be granted in respect of contributions and interest credited to the individual accounts of employees in a provident fund from which recognition has been withdrawn, and

(*e*) generally, to carry out the purposes of this Part and to secure such further control over the recognition of provident funds and the administration of recognised provident funds as it may deem requisite

(2) All rules made under this Part shall be subject to the provisions of section 296

[5] Inserted by s 57, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971
[6] Substituted for "income-tax and super-tax" by s 66, F Act, 1965, w e f 1-4-1965

PART B

Approved superannuation funds

Rr 82-97

[See sections 2(*6*), 10(*13*), 10(*25*)(*iii*), 36(1)(*iv*), 87(1)(*e*)*, 192(5), 206(2)]

1. Definitions.—In this Part, unless the context otherwise requires, "employer", "employee", "contribution" and "salary" have, in relation to superannuation funds, the meanings assigned to those expressions in rule 2 of Part A in relation to provident funds

2. Approval and withdrawal of approval.—(1) The Commissioner may accord approval to any superannuation fund or any part of a superannuation fund which, in his opinion, complies with the requirements of rule 3, and may at any time withdraw such approval, if, in his opinion, the circumstances of the fund or part cease to warrant the continuance of the approval

(2) The Commissioner shall communicate in writing to the trustees of the fund the grant of approval with the date on which the approval is to take effect, and, where the approval is granted subject to conditions, those conditions

(3) The Commissioner shall communicate in writing to the trustees of the fund any withdrawal of approval with the reasons for such withdrawal and the date on which the withdrawal is to take effect

(4) The Commissioner shall neither refuse nor withdraw approval to any superannuation fund or any part of a superannuation fund unless he has given the trustees of that fund a reasonable opportunity of being heard in the matter

3. Conditions for approval.—In order that a superannuation fund may receive and retain approval, it shall satisfy the conditions set out below and any other conditions which the Board may, by rules, prescribe—

(*a*) the fund shall be a fund established under an irrevocable trust in connection with a trade or undertaking carried on in India, and not less than ninety per cent of the employees shall be employed in India,

(*b*) the fund shall have for its sole purpose the provision of annuities for employees in the trade or undertaking on their retirement at or after a specified age or on their becoming incapacitated prior to such retirement, or for the widows, children or dependants of persons who are or have been such employees on the death of those persons,

(*c*) the employer in the trade or undertaking shall be a contributor to the fund, and

(*d*) all annuities, pensions and other benefits granted from the fund shall be payable only in India

4. Application for approval.—(1) An application for approval of a superannuation fund or part of a superannuation fund shall be made in writing by the trustees of the fund to the Income-tax Officer by whom the employer is assessable, and shall be accompanied by a copy of the instrument under which the fund is established and by two copies of the rules [7][and, where the fund has been in existence during any year or years prior to the financial year in which the application for approval is made, also two copies of the accounts of the fund relating to such prior year or years (not

* "80C(2)(*e*)" should now be substituted for "87(1)(*e*)"

[7] Substituted for "and of the accounts of the fund for the last year" by s 57, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

being more than three years immediately preceding the year in which the said application is made)] for which such accounts have been made up, but the Commissioner may require such further information to be supplied as he thinks proper.

(2) If any alteration in the rules, constitution, objects or conditions of the fund is made at any time after the date of the application for approval, the trustees of the fund shall forthwith communicate such alteration to the Income-tax Officer mentioned in sub-rule (1), and in default of such communication any approval given shall, unless the Commissioner otherwise orders, be deemed to have been withdrawn from the date on which the alteration took effect

5. Contributions by employer when deemed to be income of employer.—Where any contributions by an employer (including the interest thereon, if any) are repaid to the employer, the amount so repaid shall be deemed for the purpose of income-tax [8]* * to be the income of the employer of the previous year in which it is so repaid

R 33 **6. Deduction of tax on contributions paid to an employee.**—Where any contributions made by an employer, including interest on contributions, if any, are paid to an employee during his lifetime [9][in circumstances other than those referred to in clause (*13*) of section 10], [10][tax] on the amounts so paid shall be deducted at the average rate of [10][tax] at which the employee was liable to [10][tax] during the preceding three years or during the period, if less than three years, when he was a member of the fund, and shall be paid by the trustees to the credit of the Central Government within the prescribed time and in such manner as the Board may direct

7. Deduction from pay of and contributions on behalf of employee to be included in return.—Where an employer deducts from the emoluments paid to an employee or pays on his behalf any contributions of that employee to an approved superannuation fund, he shall include all such deductions or payments in the return which he is required to furnish under sub-section (1) of section 206

8. Appeals.—(1) An employer objecting to an order of the Commissioner refusing to accord approval to a superannuation fund or an order withdrawing such approval may appeal, within sixty days of such order, to the Board

(2) The appeal shall be in such form and shall be verified in such manner and shall be subject to the payment of such fee as may be prescribed

9. Liability of trustees on cessation of approval.—If a fund or a part of a fund for any reason ceases to be an approved superannuation fund, the trustees of the fund shall nevertheless remain liable to tax on any sum paid on account of returned contributions (including interest on contributions, if any), in so far as the sum so paid is in respect of contributions made before the fund or part of the fund ceased to be an approved superannuation fund under the provisions of this Part

10. Particulars to be furnished in respect of superannuation funds.—The trustees of an approved superannuation fund and any employer who contributes to an approved superannuation fund shall, when required by notice from the Income-tax Officer, within such period, not being less than twenty-one days from the date of the notice, as may be specified in the notice, furnish such return, statement, particulars or information, as the Income-tax Officer may require

Rr 82-97 **11. Provisions relating to rules.**—(1) In addition to any power conferred by this Part, the Board may make rules—

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8 "And super-tax" omitted by s 66, F Act, 1965, w e f 1-4-1965
9 Inserted, *ibid*, w e f 1-4-1965
10 Substituted for "income-tax and super-tax", *ibid*, w e f 1-4-1965

(*a*) prescribing the statements and other information to be submitted along with an application for approval,

(*b*) prescribing the returns, statements, particulars, or information which the Income-tax Officer may require from the trustees of an approved superannuation fund or from the employer,

(*c*) limiting the ordinary annual contribution and any other contributions to an approved superannuation fund by an employer,

[11][(*cc*) regulating the investment or deposit of the moneys of an approved superannuation fund

Provided that no rule made under this clause shall require the investment of more than fifty per cent of the moneys of such fund in Government Securities as defined in section 2 of the Public Debt Act, 1944 (XVIII of 1944),]

(*d*) providing for the assessment by way of penalty of any consideration received by an employee for an assignment of, or creation of a charge upon, his beneficial interest in an approved superannuation fund,

(*e*) determining the extent to, and the manner in, which exemption from payment of [12][tax] may be granted in respect of any payment made from a superannuation fund from which approval has been withdrawn,

(*f*) providing for the withdrawal of approval in the case of a fund which ceases to satisfy the requirements of this Part or of the rules made thereunder, and

(*g*) generally, to carry out the purposes of this Part and to secure such further control over the approval of superannuation funds and the administration of approved superannuation funds as it may deem requisite

(2) All rules made under this Part shall be subject to the provisions of section 296

PART C

Approved gratuity funds

Rr 98-111

[See sections 2(*5*), [13][10(*25*)(*iv*),] 17(*1*)(*iii*), 36(1)(*v*)]

1. Definitions.—In this Part, unless the context otherwise requires, "employer", "employee", "contribution" and "salary" have, in relation to gratuity funds, the meanings assigned to those expressions in rule 2 of Part A in relation to provident funds

2. Approval and withdrawal of approval.—(1) The Commissioner may accord approval to any gratuity fund which, in his opinion, complies with the requirements of rule 3 and may at any time withdraw such approval if, in his opinion, the circumstances of the fund cease to warrant the continuance of the approval

(2) The Commissioner shall communicate in writing to the trustees of the fund the grant of approval with the date on which the approval is to take effect, and where the approval is granted subject to conditions, those conditions

[11] Inserted by s 57, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971
[12] Substituted for "income-tax and super-tax" by s 66, F Act, 1965, w e f 1-4-1965
[13] Inserted by s 42, F Act, 1972, w e f 1-4-1973

(3) The Commissioner shall communicate in writing to the trustees of the fund any withdrawal of approval with the reasons for such withdrawal and the date on which the withdrawal is to take effect

(4) The Commissioner shall neither refuse nor withdraw approval to any gratuity fund unless he has given the trustees of that fund a reasonable opportunity of being heard in the matter

3. Conditions for approval.—In order that a gratuity fund may receive and retain approval, it shall satisfy the conditions set out below and any other conditions which the Board may, by rules, prescribe—

(*a*) the fund shall be a fund established under an irrevocable trust in connection with a trade or undertaking carried on in India, and not less than ninety per cent of the employees shall be employed in India,

(*b*) the fund shall have for its sole purpose the provision of a gratuity to employees in the trade or undertaking on their retirement at or after a specified age or on their becoming incapacitated prior to such retirement or on termination of their employment after a minimum period of service specified in the rules of the fund or to the widows, children or dependants of such employees on their death,

(*c*) the employer in the trade or undertaking shall be a contributor to the fund, and

(*d*) all benefits granted by the fund shall be payable only in India

4. Application for approval.—(1) An application for approval of a gratuity fund shall be made in writing by the trustees of the fund to the Income-tax Officer by whom the employer is assessable and shall be accompanied by a copy of the instrument under which the fund is established and by two copies of the rules [14][and, where the fund has been in existence during any year or years prior to the financial year in which the application for approval is made, also two copies of the accounts of the fund relating to such prior year or years (not being more than three years immediately preceding the year in which the said application is made)] for which such accounts have been made up, but the Commissioner may require such further information to be supplied as he thinks proper.

(2) If any alteration in the rules, constitution, objects or conditions of the fund is made at any time after the date of the application for approval, the trustees of the fund shall forthwith communicate such alterations to the Income-tax Officer mentioned in sub-rule (1), and in default of such communication, any approval given shall, unless the Commissioner otherwise orders, be deemed to have been withdrawn from the date on which the alteration took effect

5. Gratuity deemed to be salary.—Where any gratuity is paid to an employee during his lifetime, the gratuity shall be treated as salary paid to the employee for the purposes of this Act

6. Liability of trustees on cessation of approval.—If a gratuity fund for any reason ceases to be an approved gratuity fund, the trustees of the fund shall nevertheless remain liable to tax on any gratuity paid to any employee

7. Contributions by employer, when deemed to be income of employer.—Where any contributions by an employer (including the interest thereon, if any) are repaid to the employer, the amount so repaid shall be deemed for the purposes of

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[14] Substituted for "and of the accounts of the fund for the last three years" by s 57, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

income-tax [15]* * to be the income of the employer of the previous year in which they are so repaid

8. Appeals.—(1) An employer objecting to an order of the Commissioner refusing to accord approval to a gratuity fund or an order withdrawing such approval may appeal, within sixty days of such order, to the Board

(2) The appeal shall be in such form and shall be verified in such manner and shall be subject to the payment of such fee as may be prescribed

[16][**8A. Particulars to be furnished in respect of gratuity funds.**—The trustees of an approved gratuity fund and any employer who contributes to an approved gratuity fund shall, when required by notice from the Income-tax Officer, furnish within such period, not being less than twenty-one days from the date of the notice, as may be specified in the notice, such return, statement, particulars or information, as the Income-tax Officer may require]

9. Provisions relating to rules.—(1) In addition to any power conferred in this Part, the Board may make rules— Rr 98-111

(*a*) prescribing the statements and other information to be submitted along with an application for approval,

(*b*) limiting the ordinary annual and other contributions of an employer to the fund,

[16][(*bb*) regulating the investment or deposit of the moneys of an approved gratuity fund

Provided that no rule made under this clause shall require the investment of more than fifty per cent of the moneys of such fund in Government Securities as defined in section 2 of the Public Debt Act, 1944 (XVIII of 1944),]

(*c*) providing for the assessment by way of penalty of any consideration received by an employee for an assignment of, or the creation of a charge upon, his beneficial interest in an approved gratuity fund,

(*d*) providing for the withdrawal of the approval in the case of a fund which ceases to satisfy the requirements of this Part or the rules made thereunder, and

(*e*) generally, to carry out the purposes of this Part and to secure such further control over the approval of gratuity funds and the administration of gratuity funds as it may deem requisite

(2) All rules made under this Part shall be subject to the provisions of section 296

[17][THE FIFTH SCHEDULE

[18][(See section 33(1)(*b*)(*B*)(*i*))]

LIST OF ARTICLES AND THINGS

(1) Iron and steel (metal), ferro-alloys and special steels

(2) Aluminium, copper, lead and zinc (metals)

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[15] "And super-tax" omitted by s 66, F Act, 1965, w e f 1-4-1965

[16] Inserted by s 57, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

[17] The original Schedule omitted by s 48, F Act, 1964, w e f 1-4-1964, and the present Schedule inserted by s 67, F Act, 1965, w e f 1-4-1965

[18] Substituted for "(See sections 33(1)(*b*)(*B*)(*i*) and 80B(7))" by s 30 and 3rd Sch , F Act, 1968, w e f 1-4-1969 "(See sections 33(1)(*b*)(*B*)(*i*) and 80B(7))" substituted for "(See sections 33(1)(*iii*)(*c*), 80E and 85A)" by s 33 and 3rd Sch , F (No 2) Act, 1967, w e f 1-4-1968 "(See sections 33(1)(*iii*)(*c*), 80E and 85A)" substituted for "(See section 33(1)(*iii*)(*c*))" by s 37, F Act, 1966, w e f 1-4-1966

(3) [19][Coal, lignite, iron ore], bauxite, manganese ore, dolomite, limestone, magnesite and mineral oil.

(4) Industrial machinery specified under the heading "8 Industrial machinery", sub-heading "A Major items of specialised equipment used in specific industries", of the First Schedule to the Industries (Development and Regulation) Act, 1951 (LXV of 1951)

(5) Boilers and steam generating plants, steam engines and turbines and internal combustion engines

(6) Flame and drip proof motors

(7) Equipment for the generation and transmission of electricity including transformers, cables and transmission towers

(8) Machine tools and precision tools (including their attachments and accessories, cutting tools and small tools), dies and jigs.

(9) Tractors, earth-moving machinery and agricultural implements

(10) Motor trucks and buses

(11) Steel castings and forgings and malleable iron and steel castings

(12) Cement and refractories

(13) Fertilisers, namely, ammonium sulphate, ammonium sulphate nitrate (double salt), ammonium nitrate, calcium ammonium nitrate (nitrolime stone), ammonium chloride, super phosphate, urea and complex fertilisers of synthetic origin containing both nitrogen and phosphorus, such as ammonium phosphates, ammonium sulphate phosphate and ammonium nitro phosphate

(14) Soda ash

(15) Pesticides.

(16) Paper and pulp [20][including newsprint]

(17) Electronic equipment, namely, radar equipment, computers, electronic accounting and business machines, electronic communication equipment, electronic control instruments and basic components, such as valves, transistors, resistors, condensors, coils, magnetic materials and microwave components

(18) Petrochemicals including corresponding products manufactured from other basic raw materials like calcium carbide, ethyl alcohol or hydrocarbons from other sources

(19) Ships

(20) Automobile ancillaries.

(21) Seamless tubes

(22) Gears

(23) Ball, roller and tapered bearings

(24) Component parts of the articles mentioned in items Nos (4), (5), (7) and (9), that is to say, such parts as are essential for the working of the machinery referred to in the items aforesaid and have been given for that purpose some special shape or quality which would not be essential for their use for any other purpose and are in complete finished form and ready for fitment.

[19] Substituted for "Iron ore" by s 18, F (No 2) Act, 1965, w e f 1-4-1965
[20] Inserted by s 37, F Act, 1966, w. e f 1-4-1966, but for the purposes of s 33(1) the amendment shall have effect in respect of machinery or plant installed after 31-3-1966

(25) Cotton seed oil

[21][(26) Tea

(27) Printing machinery]

[22][(28) Processed seeds.

(29) Processed concentrates for cattle and poultry feed

(30) Processed (including frozen) fish and fish products

(31) Vegetable oils and oil-cakes manufactured by the solvent extraction process from seeds other than cotton seed]

[23][(32) Textiles (including those dyed, printed or otherwise processed) made wholly or mainly of cotton, including cotton yarn, hosiery and rope.

(33) Textiles (including those dyed, printed or otherwise processed) made wholly or mainly of jute, including jute twine and jute rope]]

THE SIXTH SCHEDULE

Inserted by s 30 of, and the Third Schedule to, the Finance Act, 1968, with effect from 1st April 1969, and omitted by s 43 of the Finance Act, 1972, with effect from 1st April 1973

[24][THE SEVENTH SCHEDULE

[See section 35E]

PART A —*Minerals*

1. Aluminium ores
2 Apatite and phosphatic ores.
3 Beryl
4 Chrome ore.
5 Coal and lignite.
6. Columbite, Samarskite and other minerals of the "rare earths" group.
7. Copper
8. Gold.
9 Gypsum.
10. Iron ore
11. Lead.
12 Manganese ore.
13. Molybdenum.

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[21] Inserted by s 37, F Act, 1966, w e f 1-4-1966; but for the purposes of s 33(1) the amendment shall have effect in respect of machinery or plant installed after 31-3-1966

[22] Inserted by s 30 and 3rd Sch , F Act, 1968, w e f 1-4-1969

[23] Inserted by s 23, F Act, 1969, w e f 1-4-1970

[24] Inserted by s 58, Taxation Laws (Amendment) Act, 1970, w e f 1-4-1971

14 Nickel ores

15. Platinum and other precious metals and their ores.

16. Pitchblende and other uranium ores

17 Precious stones

18. Rutile

19. Silver

20 Sulphur and its ores

21 Tin

22 Tungsten ores

23 Uraniferous allanite, monazite and other thorium minerals

24 Uranium bearing tailings left over from ores after extraction of copper and gold, ilmenite and other titanium ores

25 Vanadium ores

26 Zinc

27 Zircon

PART B —*Groups of Associated Minerals*

1 Apatite, Beryl, Cassiterite, Columbite, Emerald, Felspar, Lepidolite, Mica, Pitchblende, Quartz, Samarskite, Scheelite, Topaz, Tantalite, Tourmaline

2 Iron, Manganese, Titanium, Vanadium and Nickel minerals

3 Lead, Zinc, Copper, Cadmium, Arsenic, Antimony, Bismuth, Cobalt, Nickel, Molybdenum, and Uranium minerals, and Gold and Silver, Arsinopyrite, Chalcopyrite, Pyrite, Pyphrotite and Pentalandite

4 Chromium, Osmiridium, Platinum and Nickel minerals

5 Kyanite, Sillimanite, Corrundum, Dumortierite and Topaz

6 Gold, Silver, Tellurium, Selenium and Pyrite

7 Barytes, Fluorite, Chalcocite, Selenium, and minerals of Zinc, Lead and Silver

8 Tin and Tungsten minerals

9 Limestone, Dolomite and Magnesite.

10. Ilmenite, Monazite, Zircon, Rutile, Garnet and Sillimanite

11 Sulphides of copper and iron

12 Coal, Fireclay and Shale

13 Magnetite and Apatite

14 Magnesite and Chromite

15. Talc (Soapstone and Steatite) and Dolomite

16 Bauxite, Laterite, Aluminous Clays, Lithomorge, Titanium, Vanadium, Gallium and Columbium minerals]

[25][THE EIGHTH SCHEDULE

[See section 80HH]

LIST OF BACKWARD AREAS

Name of State or Union territory (1)	Backward areas (2)
Andhra Pradesh	The districts of Anantapur, Chittoor, Cuddapah, Karimnagar, Khammam, Kurnool, Mahbubnagar, Medak, Nalgonda, Nellore, Nizamabad, Ongole, Srikakulam and Warangal.
Assam	The districts of Cachar, Goalpara, Kamrup, Lakhimpur, Mikir Hills, North Cachar Hills and Nowgong
Bihar	The districts of Bhagalpur, Darbhanga, East Champaran, Madhubani, Muzaffarpur, Palamau, Purnea, Saharsa, Samastipur, Santal Parganas, Saran, Sitamarhi, Siwan, Vaishali and West Champaran
Gujarat	The districts of Amreli, Banas Kantha, Bharuch, Bhavnagar, Junagadh, Kutch, Mahesana, Panch Mahals, Sabar Kantha and Surendranagar.
Haryana	The districts of Bhiwani, Hissar, Jind and Mahendragarh
Himachal Pradesh	The districts of Chamba, Hamirpur, Kangra, Kinnaur, Kulu, Lahul and Spiti, Sirmur, Solan and Una
Jammu and Kashmir	The districts of Anantnag, Baramula, Doda, Jammu, Kathua, Ladakh, Punch, Rajauri, Srinagar and Udhampur
Karnataka	The districts of Belgaum, Bidar, Bijapur, Dharwar, Gulbarga, Hassan, Mysore, North Kanara, Raichur, South Kanara and Tumkur.
Kerala	The districts of Alleppey, Cannanore, Malappuram, Trichur and Trivandrum
Madhya Pradesh	The districts of Balaghat, Bastar, Betul, Bilaspur, Bhind, Chhatarpur, Chhindwara, Damoh, Datia, Dewas, Dhar, Guna, Hoshangabad, Jhabua, Khargone, Mandla, Mandsaur, Morena, Narsimhapur, Panna, Raigarh, Raipur, Raisen, Rajgarh, Rajnandgaon, Ratlam, Rewa, Sagar, Sehore, Seoni, Shajapur, Shivpuri, Sidhi, Surguja, Tikkamgarh and Vidisha

[25] Inserted by s 15, Direct Taxes (Amendment) Act, 1974, w e f 1-4-1974

Name of State or Union territory (1)	Backward areas (2)
Maharashtra	The districts of Aurangabad, Bhandara, Bhir, Buldhana, Chandrapur, Dhulia and Jalgaon; the district of Kolaba excluding such portion thereof as is comprised in the area designated as the site for the proposed new town of New Bombay by notification No RPB 1171-18124-I W, dated the 20th March, 1971, issued under sub-section (1) of section 113 of the Maharashtra Regional and Town Planning Act, 1966 (Maharashtra Act XXXVII of 1966), by the Government of Maharashtra (Urban Development, Public Health and Housing Department) as amended by notification No RPB 1173-I-RPC, dated the 16th August, 1973, issued by that Government, the districts of Nanded, Osmanabad, Parbhani, Ratnagiri and Yeotmal
Manipur	The whole of the State
Meghalaya	The districts of Garo Hills, Jaintia Hills and Khasi Hills
Nagaland	The whole of the State
Orissa	The districts of Balasore, Bolangir, Dhenkanal, Kalahandi, Keonjhar, Koraput, Mayurbhanj and Phulbani
Punjab	The district of Bhatinda, so much of the district of Faridkot as formed part of the district of Bhatinda on the 31st day of July, 1972, the districts of Gurdaspur, Hoshiarpur and Sangrur
Rajasthan	The districts of Alwar, Banswara, Barmer, Bhilwara, Churu, Dungarpur, Jaisalmer, Jalor, Jhalawar, Jhunjhunun, Jodhpur, Nagaur, Sikar, Sirohi, Tonk and Udaipur
Tamil Nadu	The districts of Dharmapuri, Kanyakumari, Madurai, North Arcot, Ramanathapuram, South Arcot, Thanjavur and Tiruchirapalli
Tripura	The whole of the State
Uttar Pradesh	The districts of Almora, Azamgarh, Baharaich, Ballia, Banda, Bara Banki, Basti, Budaun, Bulandshahr, Chamoli, Deoria, Etah, Etawah, Faizabad, Farrukhabad, Fatehpur, Garhwal, Ghazipur, Gonda, Hamirpur, Hardoi, Jalaun, Jaunpur, Jhansi, Mainpuri, Mathura, Moradabad, Pilibhit, Pithoragarh, Pratapgarh, Rae Bareli, Shahjahanpur, Sitapur, Sultanpur, Tehri-Garhwal, Unnao and Uttarkashi
West Bengal	The districts of Bankura, Birbhum, Burdwan, Cooch Behar, Darjeeling, Hooghly, Jalpaiguri, Malda, Midnapore, Murshidabad, Nadia, Purulia and West Dinajpur

Name of State or Union territory (1)	Backward areas (2)
Andaman and Nicobar Islands	The whole of the Union territory
Arunachal Pradesh	The whole of the Union territory
Dadra and Nagar Haveli	The whole of the Union territory
Goa, Daman and Diu	The whole of the Union territory
Lakshadweep	The whole of the Union territory
Mizoram	The whole of the Union territory
Pondicherry	The whole of the Union territory

Explanation—Save as otherwise expressly provided, reference to any district in this Schedule shall be construed as a reference to the areas comprised in that district on the 3rd day of September, 1973, being the date of introduction of the Direct Taxes (Amendment) Bill, 1973, in the House of the People]

[1][THE NINTH SCHEDULE

[See section 32(1)(*vi*)]

LIST OF ARTICLES OR THINGS

1 Iron and steel (metal)

2 Non-ferrous metals

3 Ferro-alloys and special steels

4 Steel castings and forgings and malleable iron and steel castings

5 Thermal and hydro power generation equipment

6 Transformers and switch gears

7 Electric motors

8 Industrial and agricultural machinery

9 Earth moving machinery

10 Machine tools

11 Fertilisers, namely, ammonium sulphate, ammonium sulphate nitrate (double salt), ammonium nitrate, calcium ammonium nitrate (nitrolime stone), ammonium chloride, super phosphate, urea and complex fertilisers of synthetic origin containing both nitrogen and phosphorus, such as ammonium phosphates, ammonium sulphate phosphate and ammonium nitro phosphate

12 Soda ash

13 Caustic soda

14 Commercial vehicles

15 Ships

16 Aircraft

17 Tyres and tubes

18 Paper, pulp and newsprint.

[1] Inserted by s 16, Direct Taxes (Amendment) Act, 1974, w e f 1-4-1975

19 Sugar

20. Vegetable oils.

21. Textiles (including those dyed, printed or otherwise processed) made wholly or mainly of cotton, including cotton yarn, hosiery and rope.

22 Textiles (including those dyed, printed or otherwise processed) made wholly or mainly of jute, including jute twine and jute rope

23 Cement and refractories.

[2][24. Pesticides

Explanation —The article specified in item 24 does not include any formulation of pesticides unless the formulation is prepared by the manufacturer or producer of the basic pesticidal chemicals from which such formulation has been prepared]]

[3][THE TENTH SCHEDULE

[See section 40A(8)]

LIST OF INSTITUTIONS AND BODIES

1 The Industrial Finance Corporation of India, established under the Industrial Finance Corporation Act, 1948 (XV of 1948)

2 Financial Corporations or Joint Financial Corporations, established under the State Financial Corporations Act, 1951 (LXIII of 1951) and any institution deemed under section 46 of that Act to be a Financial Corporation established by the State Government for the State within the meaning of that Act

3 The Shipping Development Fund Committee, constituted under section 15 of the Merchant Shipping Act, 1958 (XLIV of 1958)

4 The Unit Trust of India, established under the Unit Trust of India Act, 1963 (LII of 1963)

5 The Industrial Development Bank of India, established under the Industrial Development Bank of India Act, 1964 (XVIII of 1964)

6 State Electricity Boards, constituted under the Electricity (Supply) Act, 1948 (LIV of 1948)

7 The Life Insurance Corporation of India, established under the Life Insurance Corporation Act, 1956 (XXXI of 1956)

8 The Rehabilitation Industries Corporation of India Limited

9 The State Trading Corporation of India Limited.

10 The Minerals and Metals Trading Corporation of India Limited.

11 The Rural Electrification Corporation Limited

12 The Agricultural Finance Corporation Limited

13 The Industrial Reconstruction Corporation of India Limited.

14 The Industrial Credit and Investment Corporation of India Limited

15 The National Industrial Development Corporation of India Limited

16 The State Industrial and Investment Corporation of Maharashtra Limited]

[2] Inserted by s 22, F Act, 1975, w e f 1-4-1976
[3] Inserted by s 23, *ibid*, w e f 1-4-1976

DIVISION 3

THE INCOME-TAX RULES, 1962

THE INCOME-TAX RULES, 1962

(*Notification No S O 969, dated 26th March 1962*)

In exercise of the powers conferred by section 295 of the Income-tax Act, 1961 (XLIII of 1961), and rule 15 of Part A, rule 11 of Part B and rule 9 of Part C of the Fourth Schedule to that Act, the Central Board of Revenue hereby makes the following rules, namely —

PART I

PRELIMINARY

1. Short title and commencement.—(1) These rules may be called the Income-tax Rules, 1962

(2) They shall come into force on the 1st day of April, 1962

2. Definitions —(1) In these rules, unless the context otherwise requires,—

(*a*) "Act" means the Income-tax Act, 1961 (XLIII of 1961),

(*b*) "Chapter", "section" and "Schedule" mean respectively Chapter and section of, and Schedule to, the Act

(2) All references to "Forms" in these rules shall be construed as references to the forms set out in Appendix II hereto

PART II

DETERMINATION OF INCOME

A —Salaries

2A. Limits for the purposes of section 10(13A).—The amount which is not to be included in the total income of an assessee in respect of the special allowance referred to in clause (*13A*) of section 10 shall be—

(*a*) the actual amount of such allowance received by the assessee in respect of the relevant period, or

(*b*) the amount by which the expenditure actually incurred by the assessee in payment of rent in respect of residential accommodation occupied by him exceeds one-tenth of the amount of salary due to the assessee in respect of the relevant period, or

(*c*) an amount equal to—

(*i*) where such residential accommodation is situate at Agra, Ahmedabad, Allahabad, Amritsar, Bangalore, Bombay, Calcutta, Cochin, Coimbatore, Delhi, Hyderabad, Indore, Jabalpur, Jaipur, Kanpur, Lucknow, Madras, Madurai, Nagpur, Patna, Poona, Sholapur, Srinagar, Surat, Trivandrum, Vadodara (Baroda) or Varanasi (Banaras), one-fifth of the amount of salary due to the assessee in respect of the relevant period, and

(*ii*) where such residential accommodation is situate at any other place, one-tenth of the amount of salary due to the assessee in respect of the relevant period, or

(*d*) a sum calculated at the rate of Rs 400 per month in respect of the relevant period,

whichever is the least

Explanation—In this rule—

(*i*) "salary" shall have the meaning assigned to it in clause (*h*) of rule 2 of Part A of the Fourth Schedule,

(*ii*) "relevant period" means the period during which the said accommodation was occupied by the assessee during the previous year

2B. Cases and circumstances for the purposes of the proviso to section 10(5)(ii).—The amount exempt under item (*a*) of sub-clause (*ii*) of clause (*5*) of section 10 in respect of the value of the travel concession or assistance received by or due to the individual from his employer for himself and his family, in connection with his proceeding on leave to any place in India, may exceed the value of the travel concession or the assistance which would have been received by or due to him in connection with his proceeding to his home district in India on leave in the cases and under the circumstances specified below, namely —

(*a*) where the individual is entitled to such travel concession or assistance once in a block of four calendar years commencing from the calendar year 1974, the value of such travel concession or assistance availed of in each such block,

(*b*) where the individual is entitled to such travel concession or assistance more than once in any such block of four calendar years, the value of the travel concession or assistance first availed of by him in each such block;

(*c*) where such travel concession or assistance is not availed of by the individual during any such block of four calendar years, the value of the travel concession or assistance, if any, first availed of by the individual during the first calendar year of the immediately succeeding block of four calendar years

Explanation—The value of the travel concession or assistance referred to in clause (*c*) shall not be taken into account in determining the eligibility of the value of the travel concession or assistance under clause (*a*) or, as the case may be, clause (*b*) of this rule

3. Valuation of perquisites.—For the purpose of computing the income chargeable under the head "Salaries" the value of the perquisites (not provided for by way of monetary payment to the assessee) mentioned below shall be determined in accordance with the following clauses, namely —

(*a*) The value of rent-free residential accommodation shall be determined on the basis provided hereunder, namely —

(*i*) where the accommodation is provided—

(*A*) by Government to a person holding an office or post in connection with the affairs of the Union or of a State,

(*B*) by a body or undertaking under the control of Government to any officer of Government whose services have been lent to that body or undertaking (the accommodation itself having been allotted to it by Government),

an amount equal to—

(*1*) if the accommodation is unfurnished, the rent which has been or would have been determined as payable by such person or officer

in accordance with the rules framed by Government for allotment of residences to its officers,

(2) if the accommodation is furnished, an amount calculated in accordance with sub-clause (i)(1) plus 15 per cent, per annum, of the original cost of the furniture (including television sets, radio sets, refrigerators, other household appliances and air-conditioning plant or equipment) or if such furniture is hired from a third party, the actual hire charges payable therefor,

(ii) where the accommodation is provided—

(A) by the Reserve Bank of India, to any person employed by it,

(B) by a corporation established by a Central, State or Provincial Act, or by a company in which all the shares are held (whether singly or taken together) by the Government or the Reserve Bank of India or a corporation owned by that Bank, to any person employed by it,

(BB) by a company [not being a company referred to in sub-clause (ii)(B) or sub-clause (ii)(D)] in which all the shares are held by a corporation referred to in sub-clause (ii)(B) or by a company referred to in that sub-clause, to any person employed by it,

(C) by a body or undertaking, including a society registered under the Societies Registration Act, 1860 (XXI of 1860), financed wholly or mainly by the Government, to any person employed by it,

(D) by a company [not being a company referred to in sub-clause (ii)(B) or sub-clause (ii)(BB)] in which not less than 40 per cent of the shares are held (whether singly or taken together) by the Government or the Reserve Bank of India or a corporation owned by that Bank, to any officer of Government whose services have been lent to it or to any person employed by it after his retirement from the service of Government,

an amount equal to—

(1) if the accommodation is unfurnished, 10 per cent of the salary due to such person or officer, as the case may be, in respect of the period during which the said accommodation was occupied by him during the previous year,

(2) if the accommodation is furnished, an amount calculated in accordance with sub-clause (ii)(1) plus 15 per cent, per annum, of the original cost of the furniture (including television sets, radio sets, refrigerators, other household appliances and air-conditioning plant or equipment) or if such furniture is hired from a third party, the actual hire charges payable therefor,

(iii) in any other case,—

(A) the value of rent-free residential accommodation which is not furnished shall ordinarily be a sum equal to 10 per cent of the salary due to the assessee in respect of the period during which the said accommodation was occupied by him during the previous year

Provided that—

(*1*) where the fair rental value of the accommodation is in excess of 20 per cent of the assessee's salary, the value of the perquisite shall be taken to be 10 per cent of the salary increased by a sum equal to the amount by which the fair rental value exceeds 20 per cent of the salary, so, however, that the Income-tax Officer may, having regard to the nature of the accommodation, determine the sum by which 10 per cent of the salary is to be increased, as a percentage (not exceeding 100 per cent) of the amount by which the fair rental value exceeds 20 per cent. of the salary,

(*2*) where the assessee claims, and the Income-tax Officer is satisfied that the sum arrived at on the basis provided above exceeds the fair rental value of the accommodation, the value of the perquisite to the assessee shall be limited to such fair rental value,

(*B*) where the accommodation is furnished, the value of rent-free residential accommodation shall be the aggregate of the following sums, namely —

(*1*) the fair rental value of the accommodation arrived at in accordance with the provisions of sub-clause (*ii*)(*A*) as if the accommodation were not furnished, and

(*2*) the fair rent for the furniture (including television sets, radio sets, refrigerators, other household appliances and air-conditioning plant or equipment) calculated at 15 per cent, per annum, of the original cost of such furniture or if such furniture is hired from a third party, the actual hire charges payable therefor

Explanation 1—"Salary" includes the pay, allowances, bonus or commission payable monthly or otherwise, but does not include the following, namely —

(*i*) dearness allowance or dearness pay unless it enters into the computation of superannuation or retirement benefits of the assessee concerned,

(*ii*) employer's contributions to the provident fund account of the assessee,

(*iii*) allowances which are exempted from payment of tax,

(*iv*) any allowance in the nature of an entertainment allowance, to the extent such allowance is deductible under clause (*ii*) of section 16

Explanation 2—For the purposes of sub-clause (*iii*), the fair rental value of accommodation which is not furnished shall be the rent which a similar accommodation would realise in the same locality or the municipal valuation in respect of the accommodation, whichever is higher

(*b*) The value of residential accommodation provided at a concessional rent shall be determined as the sum by which the value computed in accordance with clause (*a*), as if the accommodation were provided free of rent, exceeds the rent actually payable by the assessee for the period of his occupation during the relevant previous year

(*c*) (*i*) The value of a motor car provided by the employer for use by the assessee exclusively for his private or personal purposes shall be determined as the sum actually expended by the employer on the maintenance and running of the motor car during the relevant previous year (including remuneration, if any, paid by the employer to the chauffeur) and, where the motor car is owned by the employer, as the aggregate of such sum and the amount representing the normal wear and tear of the motor car,

(*ii*) the value of a motor car provided by the employer for use by the assessee partly in the performance of his duties and partly for his private or personal purposes shall be determined to be a sum equal to that part of the amount actually expended by the employer on the maintenance and running of the motor car during the relevant previous year (including remuneration, if any, paid by the employer to the chauffeur) which can reasonably be attributed to the user of the motor car by the assessee for his private or personal purposes or, where the motor car is owned by the employer, the aggregate of such sum and of a sum equal to that part of the amount representing the normal wear and tear of the motor car which can reasonably be attributed to the user of the motor car by the assessee for his private or personal purposes, so, however, that where a determination on the basis mentioned above presents difficulty, the value of the perquisite may be determined on the basis provided in the Table below —

TABLE

	Value of perquisite per calendar month	
1	2	3
	Where the h p rating of the car does not exceed 16 or the cubic capacity of the engine does not exceed 1 88 litres	Where the h p rating of the car exceeds 16 or the cubic capacity of the engine exceeds 1 88 litres
	Rs	Rs
1 Where the motor car is owned or hired by the employer and all the expenses on maintenance and running are met or reimbursed to the assessee by the employer	300	400
2 Where the motor car is owned or hired by the employer but the expenses on maintenance and running for the assessee's private or personal purposes are met by the assessee	100	150

Provided that where a chauffeur is also provided to run the motor car, the value of the perquisite as calculated in accordance with this Table shall be increased by a sum of Rs 150 per month,

(*iii*) where one or more motor cars are owned or hired by the employer of the assessee and the assessee is allowed the use of such motor car or all or any of such motor cars (otherwise than wholly and exclusively in the performance of his duties), an amount calculated in accordance with the Table under sub-clause (*ii*) and the proviso thereto as if the assessee had

been provided one motor car for use partly in the performance of his duties and partly for his private or personal purposes

Provided that where two or more motor cars are allowed to be so used and the h p rating of any one of such motor cars exceeds 16 or the cubic capacity of the engine of any one of such motor cars exceeds 1 88 litres, the assessee shall be deemed to have been provided by the employer with one motor car of h p rating exceeding 16:

Provided further that where two or more motor cars are allowed to be so used and a chauffeur is also provided to run any such motor car, the value of the perquisite as so calculated shall be increased by a sum of Rs 150 per month,

(*iv*) where the assessee owns a motor car but the actual running or maintenance charges (including remuneration of the chauffeur, if any) are met, or reimbursed to him, by the employer, the value of the perquisite to the assessee shall be determined as the sum actually expended by the employer which, in the opinion of the Income-tax Officer, can reasonably be attributed to the user of the car by the assessee otherwise than wholly and exclusively in the performance of his duties,

(*v*) the value of a motor car or motor cars provided for the use of, or allowed to be used by, the assessee (otherwise than wholly and exclusively in the performance of his duties) at a concessional rate shall be determined as the sum by which the value computed in accordance with the foregoing provisions of this clause exceeds the amount actually payable by the assessee for the use of such motor car or motor cars for the period of use during the relevant previous year,

(*vi*) the value of the free use by the assessee of any other type of conveyance provided by the employer shall be determined as so much of the sum actually expended by the employer on the maintenance and running of the conveyance during the relevant previous year, and where the conveyance is owned by the employer, as so much of the aggregate of such sum and the amount representing the normal wear and tear of the conveyance, as, in the opinion of the Income-tax Officer, can reasonably be attributed to the user by the assessee, otherwise than wholly and exclusively in the performance of his duties

(*d*) The value of the benefit to the assessee resulting from the supply of gas, electric energy or water for his household consumption free of any charge shall be determined as the sum equal to the amount paid on that account by the employer to the agency supplying the gas, electric energy or water, but—

(*i*) where such supply is made from resources owned by the employer without purchasing them from any other outside agency, the value therefor shall be taken as nil, and

(*ii*) where the Income-tax Officer is satisfied that the gas, electric energy or water supply to any assessee are consumed also for the purposes of his official duties, the Income-tax Officer shall determine the value of the benefit to the assessee to be equal to the amount paid on that account by the employer to the agency supplying the gas, electric energy or water or 6¼ per cent of the salary of the assessee, whichever is lower

(*e*) The value of the benefit to the assessee resulting from the provision of free education facilities for any member of his household shall be determined as the sum equal to the amount of the expenditure incurred by the

employer in that behalf, but where the educational institution itself is maintained and run by the employer for the benefit of all his employees as a group, the value of the perquisite to the assessee shall be determined with reference to the reasonable cost of such education in a similar institution in or near the locality

(*f*) The value of any benefit or amenity resulting from the provision by any undertaking engaged in the carriage of passengers or goods to any employee of the undertaking or to members of his family or his dependent relatives, of journey free of cost or at concessional fares, in any conveyance owned by the undertaking for the purpose of transport of passengers or goods shall be taken as nil.

(*g*) The value of any benefit or amenity not included in the preceding clauses of this rule shall be determined on such basis and in such amount as the Income-tax Officer considers fair and reasonable

B.—Income from house property

4. Unrealised rent.—Under clause (*x*) of sub-section (1) of section 24, deduction shall be allowed of such part of income in respect of which tax is payable under the head "Income from house property" as is equal to the amount of rent payable but not paid by a tenant of the assessee and so proved to be lost and irrecoverable where—

(*a*) the tenancy is bona fide,

(*b*) the defaulting tenant has vacated, or steps have been taken to compel him to vacate the property,

(*c*) the defaulting tenant is not in occupation of any other property of the assessee,

(*d*) the assessee has taken all reasonable steps to institute legal proceedings for the recovery of the unpaid rent or satisfies the Income-tax Officer that legal proceedings would be useless, and

(*e*) the annual value of the property to which the unpaid rent relates has been included in the assessed income of the previous year during which that rent was due and tax has been duly paid on such assessed income

Provided that the deduction to be allowed on this account shall not exceed the income under the head "Income from house property" included in the total income as computed without making any deduction under this rule

C—Profits and gains of business or profession

5. Depreciation.—(1) Subject to the provisions of sub-rules (2) and (3), the allowance under clause (*i*) or clause (*ii*) of sub-section (1) of section 32 in respect of depreciation of buildings, machinery, plant or furniture or the allowance under clause (*i*) of sub-section (1A) of section 32 in respect of depreciation of any structure or work referred to in that sub-section shall be calculated at the percentages specified in the second column of the Table in Part I of Appendix I to these rules on the actual cost or, as the case may be, the written down value of such of the assets aforesaid as are used for the purposes of the business or profession of the assessee at any time during the previous year

Provided that in a case where the assessee has been allowed to vary the meaning of the expression "previous year" in respect of any business or profession under sub-section (4) of section 3 and, thereby, his income from such business or profession

for a period of thirteen months or more is included in his total income of any previous year, the allowance referred to in this sub-rule, calculated in the manner stated hereinabove, shall be increased by multiplying it by a fraction of which the numerator is the number of complete months in such previous year and the denominator is twelve

(2) In the case of a steamer or a motor vessel purchased second-hand, the allowance under clause (*i*) of sub-section (1) of section 32 shall be at the percentage of the actual cost as computed in accordance with sub-rule (1) multiplied by the fraction 20/L, where 'L' is the expectation of life at the date of purchase as indicated in the Table given in Part II of Appendix I to these rules

(3) In the case of any expenditure on additions to ocean-going steamers or motor vessels which has been treated as being capital expenditure for income-tax purposes (*e g* , the installation of refrigerating plant), the allowance under clause (*i*) of sub-section (1) of section 32 in respect of such expenditure shall be at the percentage as computed in accordance with sub-rule (1) multiplied by—

(*a*) if the expenditure is made before the expiry of the twenty years' life of the steamer or motor vessel,—the fraction 20/E, where E is the number of years required to complete the twenty years aforesaid,

(*b*) if the expenditure is made on or after the expiry of twenty years' life of the steamer or motor vessel,—the fraction 20/L, where L is the expectation of life at the date of the incurring of the capital expenditure as indicated in the Table given in Part II of Appendix I to these rules, the words "age at the date of purchase" in the Table being substituted by the words "age at the date of the incurring of the capital expenditure",

(*c*) if the expenditure is made on additions to a steamer or motor vessel purchased second-hand,—the fraction 20/R, where R is the number of years required to complete the expectation of life at the date of purchase as indicated in the Table given in Part II of Appendix I to these rules

(4) Notwithstanding anything contained in sub-rules (1) to (3), for the assessment year 1961-62 or any earlier assessment year, depreciation in respect of buildings, machinery, plant or furniture shall be allowed at percentages and in the manner specified in rule 8 of the Indian Income-tax Rules, 1922

5A. Development rebate.—The deduction to be allowed by way of development rebate in respect of any ship or machinery or plant referred to in sub-section (1A) of section 33 shall be a sum equivalent to—

(*a*) in the case of any such ship—

(*i*) where the ship is acquired by the assessee at any time before the expiry of seven years from the date she was built, thirty per cent of the actual cost of the ship to the assessee, and

(*ii*) in any other case, twenty per cent of the actual cost of the ship to the assessee,

(*b*) in the case of any such machinery or plant installed after the 31st day of March, 1964—

(*i*) where it is installed before the 1st day of April, 1966, for the purposes of business of mining coal, twenty per cent of the actual cost of the machinery or plant to the assessee, and

(*ii*) in any other case, ten per cent of the actual cost of the machinery or plant to the assessee.

Explanation.—In this rule, "actual cost" shall have the meaning assigned to it in clause (*1*) of section 43

6. Prescribed authority for scientific research.—For the purposes of section 35, the "prescribed authority" shall be—

(i) in relation to research in the fields of agriculture, animal husbandry and fisheries, the Indian Council of Agricultural Research,

(ii) in relation to research in the field of medical sciences, the Indian Council of Medical Research,

(iii) in relation to research in the field of social science or statistical research, the Indian Council of Social Science Research, and

(iv) in relation to research in the field of other natural or applied science, the Secretary, Department of Science and Technology, Government of India, or any other officer of that Department nominated by him in this behalf

6A. Prescribed authority, services, etc., for agricultural development allowance.—(1) For the purposes of clause (a) of sub-section (1) of section 35C, the "prescribed authority" shall be the Secretary, Department of Agriculture, Ministry of Food, Agriculture, Community Development and Co-operation, Government of India, or any other officer of that department nominated by him in this behalf

(2) For the purposes of sub-clause (iii) of clause (b) of sub-section (1) of section 35C, the prescribed services and facilities shall be as follows, namely —

(i) dissemination of information on, or demonstration of, modern techniques or methods of processing, marketing and storage of seeds,

(ii) services or facilities given to seed growers for the purposes of storage, transport and insurance of seeds

6AA. Form of audit report for claiming deductions under sections 35D and 35E.—The report of audit of the accounts of an assessee, other than a company or a co-operative society, which is required to be furnished under sub-section (4) of section 35D or sub-section (6) of section 35E shall be in Form No 3B

6AB. * * * * *

6AC. Limits and conditions for allowance of expenditure in certain cases.—Expenditure referred to in sub-section (3) of section 37 shall be allowed only to the extent and subject to the conditions specified in rules 6B, 6C and 6D

Provided that in the case of such expenditure incurred during the previous year commencing immediately prior to the 10th day of August, 1966, or any earlier previous year, the full amount thereof, if otherwise admissible under sub-section (1) of section 37, shall be allowed

6B. Expenditure on advertisement.—(1) The allowance in respect of expenditure on advertisement shall not in the following cases exceed—

(a) in respect of articles intended for presentation, Rs 50 on each such article,

(b) in respect of any advertisement outside India involving payment in foreign currency, the amount covered by foreign exchange granted to, or permitted to be acquired by, the assessee for this purpose under the law relating to foreign exchange for the time being in force

(2) (i) Where the Income-tax Officer is of opinion that any expenditure on advertisement of the nature described in clause (ii) is excessive or unreasonable having regard to the legitimate business needs of the assessee and the benefit derived

by or accruing to him therefrom, that portion of the expenditure which is so considered by him to be excessive or unreasonable shall not be allowed as a deduction in computing the total income,

(*ii*) the expenditure referred to in clause (*i*) is that incurred on advertisement involving payment—

(*A*) to a person (including in the case of a company, firm, an association of persons or a Hindu undivided family, a director, partner or member, as the case may be, of such company, firm, association or family) who has a substantial interest in the business of the assessee, or to a relative of such person, or

(*B*) to a person who carries on the business of, or profession as, a publicity or advertising agent, where the assessee, or in a case where the assessee is a company, firm, an association of persons or a Hindu undivided family, any director, partner or member, as the case may be, of such company, firm, association or family, or any relative of such assessee or such director, partner or member, has a substantial interest in the business or profession of that person

(3) Any expenditure on advertisement for which payment has been made in a sum exceeding Rs 2,500 shall not be allowed as a deduction in computing the total income unless such payment is made by a crossed cheque drawn on a bank or by a crossed bank draft

Provided that where an allowance has been made in the assessment for any year in respect of any liability incurred by the assessee for expenditure on advertisement exceeding Rs 2,500 and subsequently during any previous year the assessee makes payment in respect thereof otherwise than in accordance with the provisions of this clause, the allowance originally made shall be deemed to have been wrongly made and the Income-tax Officer may recompute the total income of the assessee for the previous year in which such liability was incurred and make the necessary amendment, and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the assessment year next following the previous year in which the payment was so made

Explanation—For the purposes of this rule,—

(*i*) "relative" shall have the meaning assigned to it in clause (*41*) of section 2,

(*ii*) a person shall be deemed to have a substantial interest in a business or profession, if,—

(*a*) in a case where a business or profession is carried on by a company, such person is the beneficial owner of shares, not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits, carrying not less than twenty per cent. of the voting power, and

(*b*) in any other case, such person is beneficially entitled to not less than twenty per cent of the profits of such business or profession

6C. * * * * *

6D. Expenditure in connection with travelling, etc.—(1) (*i*) The allowance in respect of expenditure incurred by an assessee in connection with travelling by an employee or any other person outside India for the purposes of the business or profession of the assessee shall not exceed the amount which bears to the aggregate

of the amount, if any, covered by foreign exchange granted, or permitted to be acquired, for the purpose of such travel under the law relating to foreign exchange for the time being in force and the amount expended on such travel in Indian currency, the same proportion as is determined in the manner specified in clause (*ii*)

(*ii*) The proportion referred to in clause (*i*) shall be determined by dividing the number of days mainly devoted by such employee or other person for the purposes of the business or profession of the assessee outside India by the total number of days spent by such employee or other person outside India (excluding, in either case, the number of days required for such travel by a reasonably direct route in the mode of travel adopted by him).

Explanation —For the purpose of this rule, the expression "days mainly devoted by such employee or other person for the purposes of the business or profession of the assessee outside India" shall include any public holiday in a foreign country on which such employee or other person is required to stay outside India, provided that the working day immediately following such public holiday is mainly devoted by him for the purposes of the business or profession of the assessee

(2) The allowance in respect of expenditure incurred by an assessee in connection with travelling by an employee or any other person within India outside the headquarters of such employee or other person for the purposes of the business or profession of the assessee shall not exceed the aggregate of the amounts computed as hereunder —

(*a*) in respect of travel by rail, road, waterway or air, the expenditure actually incurred,

(*b*) in respect of any other expenditure (including hotel expenses or allowances paid) in connection with such travel, an amount calculated at the following rates for the period spent outside such headquarters

(*i*) in respect of an employee whose salary is Rs 1,000 per month or more	Rs 100 per day or part thereof,
(*ii*) in respect of any other employee	Rs 50 per day or part thereof,
(*iii*) in respect of any other person	an amount calculated at the rates applicable in the case of the highest paid employee of the assessee

Provided that if the stay of such employee or other person outside his headquarters is at Bombay, Calcutta or Delhi, the amount computed at the aforesaid rates shall be increased by a sum equal to fifty per cent of such amount

Provided further that in a case where such employee or other person on any day of his stay outside his headquarters, stays free of charge in a guest house maintained by the assessee, the amount under this clause shall be calculated at one-third of the aforesaid rates and where the employee or such other person is provided lodging only free of charge, at one-half of the aforesaid rates

6DD. Cases and circumstances in which payment in a sum exceeding two thousand five hundred rupees may be made otherwise than by a crossed cheque drawn on a bank or by a crossed bank draft.—No disallowance under sub-section (3) of section 40A shall be made where any payment in a sum exceeding two thousand five hundred rupees is made otherwise than by a crossed cheque drawn on a bank or by a crossed bank draft in the cases and circumstances specified hereunder, namely —

(*a*) where the payment is made to—

(*i*) the Reserve Bank of India or any banking company as defined in clause (*c*) of section 5 of the Banking Regulation Act, 1949 (X of 1949),

(*ii*) the State Bank of India or any subsidiary bank as defined in section 2 of the State Bank of India (Subsidiary Banks) Act, 1959 (XXXVIII of 1959),

(*iii*) any co-operative bank or land mortgage bank,

(*iv*) any primary agricultural credit society as defined in clause (*c-ii*) of section 2 of the Reserve Bank of India Act, 1934 (II of 1934), or any primary credit society as defined in clause (*c-iv*) of that section,

(*v*) the Life Insurance Corporation of India established under section 3 of the Life Insurance Corporation Act, 1956 (XXXI of 1956),

(*vi*) the Industrial Finance Corporation of India established under section 3 of the Industrial Finance Corporation Act, 1948 (XV of 1948),

(*vii*) the Industrial Credit and Investment Corporation of India Ltd ,

(*viii*) the Industrial Development Bank of India established under section 3 of the Industrial Development Bank of India Act, 1964 (XVIII of 1964),

(*ix*) the Unit Trust of India established under section 3 of the Unit Trust of India Act, 1963 (LII of 1963),

(*x*) the Madras Industrial Investment Corporation Ltd , Madras,

(*xi*) the Andhra Pradesh Industrial Development Corporation Ltd , Hyderabad,

(*xii*) the Kerala State Industrial Development Corporation Ltd , Trivandrum,

(*xiii*) the State Industrial and Investment Corporation of Maharashtra Ltd , Bombay,

(*xiv*) the Punjab State Industrial Development Corporation Ltd , Chandigarh,

(*xv*) the National Industrial Development Corporation Ltd , New Delhi,

(*xvi*) the Mysore State Industrial Investment and Development Corporation Ltd , Bangalore,

(*xvii*) the Haryana State Industrial Development Corporation Ltd , Chandigarh,

(*xviii*) any State Financial Corporation established under section 3 of the State Financial Corporations Act, 1951 (LXIII of 1951),

(*b*) where the payment is made to Government and, under the rules framed by it, such payment is required to be made in legal tender,

(*c*) where under any contract entered into by the assessee before the 1st day of April, 1969, the payment is required to be made in legal tender,

(*d*) where the payment is made by—

(*i*) any letter of credit arrangements through a bank,

(*ii*) a mail or telegraphic transfer through a bank,

(*iii*) a book adjustment from any account in a bank to any other account in that or any other bank,

(*iv*) a bill of exchange made payable only to a bank.

Explanation—For the purposes of this clause and clause (*h*), the term "bank" means any bank, banking company or society referred to in sub-clauses (*i*) to (*iv*) of clause (*a*) and includes any bank [not being a banking company as defined in clause (*c*) of section 5 of the Banking Regulation Act, 1949 (X of 1949)], whether incorporated or not, which is established outside India,

(*e*) where the payment is made by way of adjustment against the amount of any liability incurred by the payee for any goods supplied or services rendered by the assessee to such payee,

(*f*) where the payment is made for the purchase of—

(*i*) agricultural or forest produce, or

(*ii*) the produce of animal husbandry (including hides and skins) or dairy or poultry farming, or

(*iii*) fish or fish products, or

(*iv*) the products of horticulture or apiculture,

to the cultivator, grower or producer of such articles, produce or products,

(*g*) where the payment is made for the purchase of the products manufactured or processed without the aid of power in a cottage industry, to the producer of such products,

(*h*) where the payment is made in a village or town, which on the date of such payment is not served by any bank, to any person who ordinarily resides, or is carrying on any business, profession or vocation, in any such village or town,

(*i*) where any payment by way of gratuity, retrenchment compensation or similar terminal benefit, is made to an employee of the assessee or the heirs of any such employee on or in connection with the retrenchment, resignation, discharge or death of such employee, if the income chargeable under the head "Salaries" of the employee in respect of the financial year in which such retirement, resignation, discharge or death took place or the immediately preceding financial year did not exceed Rs 7,500,

(*j*) in any other case, where the assessee satisfies the Income-tax Officer that the payment could not be made by a crossed cheque drawn on a bank or by a crossed bank draft—

(*1*) due to exceptional or unavoidable circumstances, or

(*2*) because payment in the manner aforesaid was not practicable, or would have caused genuine difficulty to the payee, having regard to the nature of the transaction and the necessity for expeditious settlement thereof,

and also furnishes evidence to the satisfaction of the Income-tax Officer as to the genuineness of the payment and the identity of the payee

6E. Limits of reserve for unexpired risks.—In the computation of profits and gains of any business of insurance other than life insurance, the amount carried over to a reserve for unexpired risks including any amount carried over to any such additional reserve which is to be allowed as a deduction under clause (*c*) of rule 5 of the First Schedule, shall not exceed—

(*a*) where the insurance business relates to fire insurance or miscellaneous insurance, 50 per cent of the net premium income of such business of the previous year,

(*b*) where the insurance business relates to marine insurance, 100 per cent of the net premium income of such business of the previous year

Provided that any amount out of the amount carried over to such reserve or additional reserve which is not allowed as a deduction under this rule in respect of any previous year shall not be included in the total income for the assessment year relevant to the immediately next succeeding previous year in the revenue account relating to which the amount aforesaid is credited

Explanation —For the purposes of this rule, "net premium income" means the amount of premiums received as reduced by the amount of reinsurance premiums paid during the relevant previous year

D —Special cases

7. Income which is partially agricultural and partially from business.—(1) In the case of income which is partially agricultural income as defined in section 2 and partially income chargeable to income-tax under the head "Profits and gains of business", in determining that part which is chargeable to income-tax the market value of any agricultural produce which has been raised by the assessee or received by him as rent-in-kind and which has been utilised as a raw material in such business or the sale receipts of which are included in the accounts of the business shall be deducted, and no further deduction shall be made in respect of any expenditure incurred by the assessee as a cultivator or receiver of rent-in-kind

(2) For the purposes of sub-rule (1) "market value" shall be deemed to be —

(*a*) where agricultural produce is ordinarily sold in the market in its raw state, or after application to it of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render it fit to be taken to market, the value calculated according to the average price at which it has been so sold during the relevant previous year,

(*b*) where agricultural produce is not ordinarily sold in the market in its raw state or after application to it of any process aforesaid, the aggregate of—

(*i*) the expenses of cultivation,

(*ii*) the land revenue or rent paid for the area in which it was grown, and

(*iii*) such amount as the Income-tax Officer finds, having regard to all the circumstances in each case, to represent a reasonable profit

8. Income from the manufacture of tea.—(1) Income derived from the sale of tea grown and manufactured by the seller in India shall be computed as if it were income derived from business, and forty per cent of such income shall be deemed to be income liable to tax

(2) In computing such income an allowance shall be made in respect of the cost of planting bushes in replacement of bushes that have died or become permanently useless in an area already planted, if such area has not previously been abandoned, and for the purpose of determining such cost, no deduction shall be made in respect of the amount of any subsidy which, under the provisions of clause (*30*) of section 10, is not includible in the total income

8A. Conditions for the grant of development allowance.—The other conditions referred to in clause (*iii*) of sub-section (3) of section 33A shall be the following, namely —

(*a*) the assessee shall, at least three months before commencing the operations for planting or, as the case may be, replanting tea bushes, give notice of his intention to do so to the Tea Board in writing in Form No 4

Provided that in a case where such operations have commenced before the 1st day of January, 1968, this condition shall be deemed to have

been fulfilled if notice of such commencement is given by the assessee before the 1st day of February, 1968,

(*b*) the assessee shall afford the Tea Board or such other person or agency as may be authorised in writing by the Tea Board in this behalf, every reasonable facility to enter upon and inspect the area under planting or, as the case may be, replanting,

(*c*) the assessee shall furnish to the Tea Board such particulars, documents or statements, in relation to the planting or replanting of tea, as the Tea Board may require him to furnish,

(*d*) the assessee shall furnish to the Income-tax Officer, along with his return of income for the previous year for which the deduction is claimed, a certificate from the Tea Board in Form No 5 and a statement of particulars in Form No 5A

Explanation —For the purposes of this rule, "Tea Board" means the Tea Board established under section 4 of the Tea Act, 1953 (XXIX of 1953)

9. Royalties or copyright fees, etc., for literary or artistic work.—(1) Where a claim for an allocation is or has been made under section 12AA of the Indian Income-tax Act, 1922 (XI of 1922), in respect of the amount referred to in that section, it shall be dealt with in the following manner, namely —

(*i*) where the time taken by the author of the literary or artistic work in the making thereof is more than twelve but less than twenty-four months, one-half of the amount referred to in the said section shall be included in the total income of the previous year in which the whole amount is received or receivable, and the other half in the total income of the next succeeding previous year, and

(*ii*) where the time so taken is twenty-four months or more, one-third of the amount referred to in the said section shall be included in the total income of the previous year in which the whole amount is received or receivable and one-third of the said amount in the total income of each of the two next succeeding previous years

(2) Where a claim for an allocation is made by an assessee under section 180 for the assessment year 1962-63 or any subsequent assessment year, it shall be dealt with in the following manner, namely —

(*i*) the tax for the assessment year relevant to the previous year in which the whole amount is received or receivable shall be—

(*a*) the amount of tax payable on the total income as reduced by two-thirds of the amount referred to in section 180 included in the total income of the previous year aforesaid had the total income so reduced been his total income, *plus*

(*b*) the tax on an amount equal to two-thirds of the amount referred to in section 180 included in the total income of the previous year aforesaid at the rate applicable to a total income of an amount equal to one-third of such inclusion, and

(*ii*) one-third of the amount referred to in section 180 included in the total income of the previous year aforesaid shall be included in the total income of each of the two next succeeding previous years and the tax payable, if any, in respect of each of the assessments relevant to the two said succeeding previous years shall be reduced by an amount equal to one-half of the tax referred to in sub-clause (*b*) of clause (*i*)

10. Determination of income in the case of non-residents.—In any case in which the Income-tax Officer is of opinion that the actual amount of the income accruing or arising to any non-resident person *whether directly or indirectly, through or from any* business connection in India or through or from any property in India or through or from any asset or source of income in India or through or from any money lent at interest and brought into India in cash or in kind cannot be definitely ascertained, the amount of such income for the purposes of assessment to income-tax may be calculated —

(*i*) at such percentage of the turnover so accruing or arising as the Income-tax Officer may consider to be reasonable, or

(*ii*) on any amount which bears the same proportion to the total profits and gains of the business of such person (such profits and gains being computed in accordance with the provisions of the Act), as the receipts so accruing or arising bear to the total receipts of the business, or

(*iii*) in such other manner as the Income-tax Officer may deem suitable

11 Determination of income from transactions with non-residents.—The profits and gains derived from any business carried on in the manner referred to in section 92 may be determined for the purposes of assessment to income-tax according to rule 10

E—Deductions to be made in computing total income

11A. Limits for life insurance premiums in the case of authors, etc.—In the case of an individual being an author, playwright, artist, musician or actor, the total amount which qualifies for the purposes of computing the deduction under sub-section (1) of section 80C shall not exceed—

(*i*) an amount equal to the aggregate of 33⅓ per cent of the income from such profession included in his gross total income and of 30 per cent of the remaining part of the gross total income, or

(*ii*) a sum of Rs 25,000,

whichever is less

PART III

ASSESSMENT PROCEDURE

12. Return of income—(1) The return of income required to be furnished under sub-section (1), or sub-section (2), or sub-section (3), or sub-section (4A), of section 139 shall,—

(*a*) in the case of a company [not being a company to which clause (*c*) applies], be in Form No 1 and be verified in the manner indicated therein;

(*b*) in the case of a person [not being a company to which clause (*a*) applies, and not being a *person to whom clause (c) applies*]—

(*i*) where the total income includes any income chargeable to income-tax under the head "Profits and gains of business or profession", be in Form No 2 and be verified in the manner indicated therein,

(*ii*) where the total income does not include any income chargeable to income-tax under the head "Profits and gains of business or profession", be in Form No 3 and be verified in the manner indicated therein,

(*c*) in the case of a person [including a company whether or not registered under section 25 of the Companies Act, 1956 (I of 1956)], in receipt of

income derived from property held under trust or other legal obligation wholly for charitable or religious purposes, or in part only for such purposes, who claims exemption under section 11, be in Form No 3A and be verified in the manner indicated therein

(2) Notwithstanding anything contained in sub-rule (1),—

(*a*) where a return of income relates to the assessment year commencing on the 1st day of April, 1961, or any earlier assessment year, it shall be furnished in the appropriate form prescribed in rule 19 of the Indian Income-tax Rules, 1922, and shall be verified in the manner indicated therein,

(*b*) where a return of income relates to the assessment year commencing on the 1st day of April, 1962, or the 1st day of April, 1963, or the 1st day of April, 1964, it shall be furnished in the appropriate form in force immediately before the 1st day of April, 1967, and shall be verified in the manner indicated therein

12A. Preparation of return by authorised representative.—Every authorised representative of an assessee, being an authorised representative specified in clause (*iii*) or clause (*iv*) or clause (*v*) or clause (*vi*) or clause (*vii*) of sub-section (2) of section 288, who has prepared the return of income furnished by the assessee shall, either before making an appearance before the Income-tax Officer having jurisdiction to assess that assessee, or immediately after making such appearance, furnish to that officer—

(*a*) particulars of accounts, statements or other documents supplied to him by the assessee for the preparation of the return of income, and

(*b*) where the authorised representative has for the purpose of preparation of the return of income carried out any examination of such accounts, statements or documents, a report on the scope and results of such examination

13. Application for extension of time for filing return of income.—The application to the Income-tax Officer under the proviso to sub-section (1), or the proviso to sub-section (2), or sub-section (3), of section 139 for seeking an extension of the date for furnishing the return of income shall be in Form No 6

14. Form of verification under section 142.—The information which a person is required by the Income-tax Officer to furnish under clause (*ii*) of sub-section (1) of section 142 shall be verified in the following manner, namely —

"I declare that to the best of my knowledge and belief, the information furnished in the statement/statements is correct and complete and other particulars shown therein are truly stated "

14A. Form of application objecting to an assessment made under section 143(1).—The application to be made by an assessee under clause (*a*) of sub-section (2) of section 143, in a case where he objects to an assessment made under sub-section (1) of that section, shall be in Form No 6A

15. Notice of demand for regular assessment, etc.—(1) Subject to the provisions of rules 38 and 48A, the notice of demand under section 156 shall be in Form No 7

(2) * * * * *

16. * * * * *

PART IV

TAX EXEMPTIONS AND RELIEFS

16A. Authority for approving any institution or body established for scientific research.—For the purposes of sub-clause (*vii-a*) of clause (*6*) of section 10, the "prescribed authority" shall be—

(*i*) in relation to research in the fields of agriculture, animal husbandry and fisheries, the Indian Council of Agricultural Research,

(*ii*) in relation to research in the field of medical sciences, the Indian Council of Medical Research, and

(*iii*) in relation to research in the field of other natural or applied science, the Secretary, Department of Science and Technology, Government of India, or any other officer of that Department nominated by him in this behalf

17. Notice for accumulation of income by charitable or religious trusts.—The notice to be given to the Income-tax Officer under sub-section (2) of section 11 shall be in Form No 10 and shall be delivered to him before the expiry of the time allowed under sub-section (1), or sub-section (2), of section 139, whether fixed originally or on extension, for furnishing the return of income

17A. Application for registration of charitable or religious trusts, etc.—An application under clause (*a*) of section 12A for registration of a charitable or religious trust or institution shall be made in duplicate in Form No 10A and shall be accompanied by the following documents, namely —

(*a*) where the trust is created, or the institution is established, under an instrument, the instrument in original, together with one copy thereof, and where the trust is created, or the institution is established, otherwise than under an instrument, the document evidencing the creation of the trust or the establishment of the institution, together with one copy thereof

Provided that if the instrument or document in original cannot conveniently be produced, it shall be open to the Commissioner to accept a certified copy in lieu of the original,

(*b*) where the trust or institution has been in existence during any year or years prior to the financial year in which the application for registration is made, two copies of the accounts of the trust or institution relating to such prior year or years (not being more than three years immediately preceding the year in which the said application is made) for which such accounts have been made up

17B. Audit report in the case of charitable or religious trusts, etc.—The report of audit of the accounts of a trust or institution which is required to be furnished under clause (*b*) of section 12A, shall be in Form No 10B

18. * * * * *

18A. Prescribed authority to certify the daily average number of rehabilitated employees in an industrial undertaking.—For the purposes of clause (*v*) of sub-section (2) of section 80H, the authority specified in column (3) of the Table below shall, in relation to any period falling after the 1st day of April, 1967, be the prescribed authority in respect of any industrial undertaking situate in the territory of the State or,

as the case may be, the Union territory, specified in the corresponding entry in column (2) thereof —

TABLE

Sl No 1	Name of the State or Union territory 2	Designation of the authority 3
1	Andaman and Nicobar Islands	Labour Commissioner, Andaman and Nicobar Islands
2	Andhra Pradesh	Chief Inspector of Factories, Andhra Pradesh, Hyderabad
3.	Bihar	Rehabilitation Commissioner, Government of Bihar
4	Delhi	Director of Industries, Delhi
5	Goa, Daman and Diu	Labour Commissioner, Government of Goa, Daman and Diu
6	Gujarat	Industries Commissioner, Government of Gujarat
7	Haryana	Director of Industries, Government of Haryana
8	Himachal Pradesh	Director of Industries, Himachal Pradesh, Simla
9	Jammu and Kashmir	Director of Industries, Government of Jammu and Kashmir
10	Kerala	Secretary, Labour and Social Welfare Department, Government of Kerala
11	Madhya Pradesh	Rehabilitation Commissioner, Government of Madhya Pradesh
12	Maharashtra	Director, Relief and Rehabilitation, Chandrapur
13	Manipur	Deputy Commissioner of Manipur
14	Mysore	Director of Industries and Commerce, Government of Mysore
15	Nagaland	Labour Secretary, Government of Nagaland
16	Orissa	Rehabilitation Commissioner, Government of Orissa
17	Pondicherry	Secretary, Revenue and Development Department, Government of Pondicherry
18	Punjab	Director of Industries, Government of Punjab
19	Tamil Nadu	Commissioner of Labour, Government of Tamil Nadu, Madras
20	Tripura	Director of Industries, Government of Tripura
21	Uttar Pradesh	Labour Commissioner, Government of Uttar Pradesh
22	West Bengal	Refugee Rehabilitation Commissioner, West Bengal

18B. Form of audit report for claiming deduction under section 80HH.—The report of audit of the accounts of an assessee, other than a company or a co-operative society, which is required to be furnished under sub-section (5) of section 80HH shall be in Form No 10C

18C. Form of audit report for claiming deduction under section 80J.—The report of audit of the accounts of an assessee, other than a company or a co-operative society, which is required to be furnished under sub-section (6A) of section 80J shall be in Form No 10D

19. Computation of capital employed in an industrial undertaking or a hotel.—(1) For the purposes of section 84, the capital employed in an undertaking or a hotel to which the said section applies shall be taken to be—

(*a*) in the case of assets acquired by purchase and entitled to depreciation—

(*i*) if they have been acquired before the computation period, their written down value on the commencing date of the said period;

(*ii*) if they have been acquired on or after the commencing date of the computation period, their average cost during the said period,

(*b*) in the case of assets acquired by purchase and not entitled to depreciation—

(*i*) if they have been acquired before the computation period, their actual cost to the assessee,

(*ii*) if they have been acquired on or after the commencing date of the computation period, their average cost during the said period,

(*c*) in the case of assets being debts due to the person carrying on the business, the nominal amounts of those debts,

(*d*) in the case of any other assets, the value of the assets when they became assets of the business

Provided that if any such asset has been acquired within the computation period, only the average of such value shall be taken in the same manner as average cost is to be computed

Explanation —For the purposes of clauses (*a*) and (*b*) of this sub-rule, the value of any building, machinery or plant or any part thereof which having been previously used for any purpose is transferred to the undertaking or hotel at the time of its formation, shall not be taken into account for computing the capital employed in cases to which the Explanation to section 84 applies

(2) Where the price of any asset has been satisfied otherwise than in cash, the then value of the consideration actually given for the asset shall be treated as the price at which the asset was acquired

(3) Any borrowed money and debt due by the person carrying on the business shall be deducted and in particular there shall be deducted any debts incurred in respect of the business for tax (including advance tax) due under any provision of the Act

Provided that any such debt for tax (including advance tax) shall, for the purpose of this sub-rule, be deemed to have become due—

(*a*) in the case of any advance tax due under any provision of the Act or of any tax payable under section 140A or under section 141, on the date on which, under the provisions of section 211 or section 212 or section 213 or section 140A or section 220, as the case may be, the payment first became due,

(*b*) in any other case, on the last day of the period of time within which the tax is payable under section 220

(4) Any investments the income from which is not to be taken into account in computing the profits of the business and any moneys not required for the purposes of the business, shall be left out of account, but where any investments in the beneficial

ownership of the person carrying on the business are so left out of account, the sum (if any) to be deducted under sub-rule (1) in respect of borrowed money shall be computed as if the principal of the borrowed money were reduced by the value of those investments

(5) For the purpose of ascertaining the average amount of capital employed in a business during any computation period, the profits or losses made in that period shall, except so far as the contrary is shown, be deemed—

(*a*) to have accrued at an even rate throughout the said period, and

(*b*) to have resulted, as they accrued, in a corresponding increase or decrease, as the case may be, in the capital employed in the business

(5A) The capital employed in a ship shall be taken to be the written down value of the ship

(6) In this rule,—

(*i*) "average cost" in relation to any asset means such proportion of the actual cost thereof as the number of days of the computation period during which such asset is used in the business bears to the total number of the days comprised in the said period,

(*ii*) "computation period" means the period for which the profits and gains of the undertaking or hotel are computed under sections 28 to 43A,

(*iii*) "depreciation" means the allowance admissible under clause (*i*) or clause (*ii*) or clause (*iv*) of sub-section (1) of section 32,

(*iv*) "written down value" means the written down value computed under sub-section (*6*) of section 43 as if for the words "previous year" the words "computation period" were substituted

19A. Computation of capital employed in an industrial undertaking or a ship or the business of a hotel for the purposes of section 80J.—(1) For the purposes of section 80J, the capital employed in an industrial undertaking or the business of a hotel shall be computed in accordance with sub-rules (2) to (4), and the capital employed in a ship shall be computed in accordance with sub-rule (5)

(2) The aggregate of the amounts representing the values of the assets as on the first day of the computation period, of the undertaking or of the business of the hotel to which the said section 80J applies shall first be ascertained in the following manner —

(*i*) in the case of assets entitled to depreciation, their written down value,

(*ii*) in the case of assets acquired by purchase and not entitled to depreciation, their actual cost to the assessee,

(*iii*) in the case of assets acquired otherwise than by purchase and not entitled to depreciation, the value of the assets when they became assets of the business,

(*iv*) in the case of assets being debts due to the person carrying on the business, the nominal amount of those debts,

(*v*) in the case of assets being cash in hand or bank, the amount thereof

Explanation 1.—In this rule, "computation period" means the period for which profits and gains of the industrial undertaking or business of the hotel are computed under sections 28 to 43A

Explanation 2—The value of any building, machinery or plant or any part thereof as is referred to in clause (*a*) or clause (*b*) of the Explanation at the end of

sub-section (6) of section 80J shall not be taken into account in computing the capital employed in the industrial undertaking or, as the case may be, the business of the hotel.

Explanation 3 —Where the cost of any asset has been satisfied otherwise than in cash, the then value of the consideration actually given for the asset shall be treated as the actual cost of the asset

(3) From the aggregate of the amounts as ascertained under sub-rule (2) shall be deducted the aggregate of the amounts, as on the first day of the computation period, of borrowed moneys and debts owed by the assessee (including amounts due towards any liability in respect of tax)

Explanation —For the purpose of this sub-rule,—

(*i*) "tax" means—

(*a*) income-tax or super-tax (including advance tax) due under any provision of the Act,

(*b*) wealth-tax due under any provision of the Wealth-tax Act, 1957 (XXVII of 1957),

(*c*) gift-tax due under any provision of the Gift-tax Act, 1958 (XVIII of 1958),

(*d*) super profits tax due under any provision of the Super Profits Tax Act, 1963 (XIV of 1963),

(*e*) surtax due under any provision of the Companies (Profits) Surtax Act, 1964 (VII of 1964),

(*ii*) any liability in respect of tax shall be deemed to have become due—

(*a*) in the case of advance tax due under any provision of the Act, on the date on which such advance tax is payable, and

(*b*) in the case of any other tax, on the first day of the period within which it is required to be paid

(4) The resultant sum as determined under sub-rule (3) shall be diminished by the value, as ascertained under sub-rule (2), of any investments the income from which is not taken into account in computing the profits of the business and any moneys not required for the purpose of the business, in so far as the aggregate of such investments or moneys exceed the amount of the borrowed moneys which under sub-rule (3) are required to be deducted in computing the capital

(5) The capital employed in a ship shall be taken to be the written down value of the ship as reduced by the aggregate of the amounts owed by the assessee as on the computation date on account of moneys borrowed or debts incurred in acquiring that ship.

Explanation —In this sub-rule, "computation date", in relation to a ship, means,—

(*a*) in respect of the previous year in which the ship is first brought into use, the date on which it is so brought into use,

(*b*) in respect of any subsequent previous year, the first day of such previous year

20. Computation of portion of dividend attributable to profits and gains from new industrial undertakings or ships or hotel business.—(1) The amount of the dividend paid or deemed to be paid by a company in respect of any previous year (hereinafter referred to as the "relevant previous year") for which a deduction is allowable under section 80K, shall be determined in accordance with sub-rules (2) to (5)

(2) The aggregate of that part of the profits and gains of the company of the relevant previous year and of the previous years preceding the relevant previous year,

on which no tax was payable by it under section 84 of the Act or under sub-section (1) of section 15C of the Indian Income-tax Act, 1922 (XI of 1922), or, as the case may be, in respect of which a deduction is allowable under section 80J of the Act, shall first be ascertained

(3) From the amount ascertained as in sub-rule (2) there shall be deducted the aggregate of the amounts of dividends, paid or deemed to be paid by the company in respect of the said preceding previous years, on which tax was not payable under section 85 of the Act or under sub-section (4) of section 15C of the Indian Income-tax Act, 1922 (XI of 1922), or, as the case may be, in respect of which a deduction is allowable under section 80K

(4) The dividend paid or deemed to have been paid by the company in respect of the relevant previous year shall be regarded as having been paid out of its funds in the following order, namely —

(*i*) first, out of, and to the extent of, the resultant sum determined as in sub-rule (3); and

(*ii*) then, out of the remaining funds

(5) The part of the dividend which is regarded as having been paid out of the sum mentioned in clause (i) of sub-rule (4) shall be the amount for which a deduction is allowable under section 80K and in the certificate to be given under sub-rule (4) of rule 31, this part shall specifically be indicated.

Explanation —The entire amount of dividends paid as a result of declaration in a meeting held to consider the accounts of the company in respect of any previous year shall constitute dividends paid in respect of that previous year

21. Limits for life insurance premia in the case of authors, etc.—(1) In the case of an individual being an author, playwright, artist, musician or actor, the total amount in respect of which a deduction of income-tax is allowed under sub-section (1) of section 87 shall not exceed—

(*i*) an amount equal to the aggregate of 33⅓ per cent of the income from such profession included in his total income and of twenty-five per cent. of the remaining part of the total income, or

(*ii*) an amount of Rs 10,000 as increased by 8⅓ per cent of the income from such profession included in his total income, subject to a maximum of Rs 15,000,

whichever is less

(2) Sub-rule (1) shall not apply for any assessment year preceding the assessment year 1962-63

21A. Relief when salary is paid in arrears or in advance, etc.—(1) Where, by reason of any portion of an assessee's salary being paid in arrears or in advance or by reason of his having received in any one financial year salary for more than twelve months or a payment which under the provisions of clause (*3*) of section 17 is a profit in lieu of salary, his income is assessed at a rate higher than that at which it would otherwise have been assessed, the relief to be granted under sub-section (1) of section 89 shall be—

(*a*) where any portion of the assessee's salary is received in arrears or in advance, in accordance with the provisions of sub-rule (2),

(*b*) where the payment is in the nature of gratuity in respect of past services of the assessee extending over a period of not less than five years, in accordance with the provisions of sub-rule (3),

(*c*) where the payment is in the nature of compensation received by the assessee from his employer or former employer at or in connection with the termination of his employment after continuous service for not less than three years and where the unexpired portion of his term of employment is also not less than three years, in accordance with the provisions of sub-rule (4),

(*d*) where the payment is in commutation of pension, in accordance with the provisions of sub-rule (5), and

(*e*) where the payment is not in the nature of salary paid in arrears or in advance or gratuity in respect of past services or compensation received at or in connection with the termination of employment or in commutation of pension, in accordance with the provisions of sub-rule (6)

(2) (*a*) In a case referred to in clause (*a*) of sub-rule (1), the tax payable by the assessee on his total income of the previous year in which the salary is received in arrears or in advance (such salary and such previous year being hereafter in this sub-rule referred to respectively as the additional salary and the relevant previous year) shall be reduced by the amount, if any, by which the tax on the additional salary, calculated in the manner specified in clause (*b*), exceeds the tax or the aggregate tax on the additional salary, calculated in the manner specified in clause (*c*) or clause (*d*), as the case may be

(*b*) Tax shall be calculated on the total income of the relevant previous year as reduced by the additional salary, as if the total income so reduced were the total income of the assessee, and the amount by which the tax so calculated falls short of the tax on the total income before such reduction shall, for the purposes of clause (*a*), be taken to be the tax on the additional salary under this clause

(*c*) Where the additional salary relates to only one previous year, tax shall be calculated on the total income of the said previous year as increased by the additional salary, as if the total income so increased were the total income of the assessee, and the amount by which the tax so calculated exceeds the tax payable by the assessee in respect of the total income of the said previous year shall, for the purposes of clause (*a*), be taken to be the tax on the additional salary under this clause

(*d*) Where the additional salary relates to more than one previous year,—

(*i*) the previous years to which the additional salary relates and the amount relating to each such previous year shall first be ascertained,

(*ii*) tax shall, then, be calculated on the total income of each such previous year as increased by the amount relating to such previous year ascertained under sub-clause (*i*), as if the total income so increased were the total income of that previous year, and

the amount by which the aggregate amount of tax in respect of the aforesaid previous years as calculated under sub-clause (*ii*) exceeds the aggregate amount of tax payable by the assessee in respect of the total income of the said previous years shall, for the purposes of clause (*a*), be taken to be the aggregate tax on the additional salary under this clause

(3) (*a*) In a case referred to in clause (*b*) of sub-rule (1), the tax payable by the assessee on his total income of the previous year in which the payment by way of gratuity is received (such previous year being hereafter in this sub-rule referred to as the relevant previous year) shall be reduced by the amount, if any, by which the tax on the amount of the gratuity included in the total income of the relevant previous year, calculated at the average rate of tax applicable to such total income, exceeds the tax on the amount of such gratuity, calculated at the rate of tax determined under clause (*b*) or, as the case may be, clause (*c*)

(*b*) Where the payment by way of gratuity is made in respect of past services of the assessee extending over a period of not less than five years but less than fifteen years,—

(*i*) the total income of the assessee in respect of each of the two previous years immediately preceding the relevant previous year shall be increased by an amount equal to one-half of the amount of the gratuity included in the total income of the relevant previous year, and the average rate of tax for each of the said two previous years shall be calculated as if the total income so increased were the total income of that previous year, and

(*ii*) the average of the average rates of tax for the two previous years immediately preceding the relevant previous year, calculated in accordance with sub-clause (*i*), shall, for the purposes of clause (*a*), be the rate of tax determined under this clause

(*c*) Where the payment by way of gratuity is made in respect of past services of the assessee extending over a period of not less than fifteen years,—

(*i*) the total income of the assessee in respect of each of the three previous years immediately preceding the relevant previous year shall be increased by an amount equal to one-third of the amount of the gratuity included in the total income of the relevant previous year, and the average rate of tax for each of the said three previous years shall be calculated as if the total income so increased were the total income of that previous year, and

(*ii*) the average of the average rates of tax for the three previous years immediately preceding the relevant previous year, calculated in accordance with sub-clause (*i*), shall, for the purposes of clause (*a*), be the rate of tax determined under this clause

(4) (*a*) In a case referred to in clause (*c*) of sub-rule (1), the tax payable by the assessee on his total income of the previous year in which the payment by way of compensation is received (such previous year being hereafter in this sub-rule referred to as the relevant previous year) shall be reduced by the amount, if any, by which the tax on the amount of the compensation included in the total income of the relevant previous year, calculated at the average rate of tax applicable to such total income, exceeds the tax on the amount of such compensation, calculated at the rate of tax determined under clause (*b*)

(*b*) The total income of the assessee in respect of each of the three previous years immediately preceding the relevant previous year shall be increased by an amount equal to one-third of the amount of the compensation included in the total income of the relevant previous year, and the average rate of tax for each of the said three previous years shall be calculated as if the total income so increased were the total income of that previous year, and the average of the average rates of tax so calculated for the three previous years shall, for the purposes of clause (*a*), be the rate of tax determined under this clause

(5) (*a*) In a case referred to in clause (*d*) of sub-rule (1), the tax payable by the assessee on his total income of the previous year in which the payment in commutation of pension is received (such previous year being hereafter in this sub-rule referred to as the relevant previous year) shall be reduced by the amount, if any, by which the tax on the payment in commutation of pension included in the total income of the relevant previous year, calculated at the average rate of tax applicable to such total income, exceeds the tax on the amount of such payment, calculated at the rate of tax determined under clause (*b*)

(*b*) The total income of the assessee in respect of each of the three previous years immediately preceding the relevant previous year shall be increased by an amount

equal to one-third of the amount of payment in commutation of pension included in the total income of the relevant previous year, and the average rate of tax for each of the said three previous years shall be calculated as if the total income so increased were the total income of that previous year, and the average of the average rates of tax so calculated for the three previous years shall, for the purposes of clause (*a*), be the rate of tax determined under this clause

(6) In a case referred to in clause (*e*) of sub-rule (1), the Board may, having regard to the circumstances of the case, allow such relief as it deems fit

21B. Relief when interest on securities is received in arrears.—(*a*) Where by reason of any portion of an assessee's income from interest on securities being received in arrears his total income is assessed at a rate higher than that at which it would otherwise have been assessed, the tax payable by the assessee on his total income of the previous year in which the income from interest on securities is received in arrears (such income and such previous year being hereafter in this rule referred to respectively as the additional interest and the relevant previous year) shall be reduced by the amount, if any, by which the tax on the additional interest, calculated in the manner specified in clause (*b*), exceeds the tax or the aggregate tax on the additional interest, calculated in the manner specified in clause (*c*) or clause (*d*), as the case may be

(*b*) Tax shall be calculated on the total income of the relevant previous year as reduced by the additional interest, as if the total income so reduced were the total income of the assessee, and the amount by which the tax so calculated falls short of the tax on the total income before such reduction shall, for the purposes of clause (*a*), be taken to be the tax on the additional interest under this clause

(*c*) Where the additional interest relates to only one previous year, tax shall be calculated on the total income of the said previous year as increased by the additional interest, as if the total income so increased were the total income of the assessee, and the amount by which the tax so calculated exceeds the tax payable by the assessee in respect of the total income of the said previous year shall, for the purposes of clause (*a*), be taken to be the tax on the additional interest under this clause

(*d*) Where the additional interest relates to more than one previous year,—

(*i*) the previous years to which the additional interest relates and the amount relating to each such previous year shall first be ascertained,

(*ii*) tax shall, then, be calculated on the total income of each such previous year as increased by the amount relating to such previous year ascertained under sub-clause (*i*), as if the total income so increased were the total income of that previous year, and

the amount by which the aggregate amount of tax in respect of the aforesaid previous years as calculated under sub-clause (*ii*) exceeds the aggregate amount of tax payable by the assessee in respect of the total income of the said previous years shall, for the purposes of clause (*a*), be taken to be the aggregate tax on the additional interest under this clause

PART V

Registration of firms

22 Application for registration of a firm.—(1) An application for registration of a firm for the purposes of the Act shall be made in accordance with the provisions of sub-rules (2) to (5)

(2) Where the application is made before the end of the relevant previous year—

(i) and where no change in the constitution of the firm or the shares of the partners has taken place during the previous year before the date of the application—

(a) the application shall be made in Form No 11, and

(b) it shall be accompanied by the original instrument evidencing the partnership at the date of the application together with a copy thereof A certified copy of the instrument together with a duplicate copy thereof may be attached to the application if, for sufficient reason, the original instrument cannot be produced,

(ii) and where any change or changes in the constitution of the firm or the shares of the partners have taken place during the previous year before the date of the application—

(a) the application shall be made in Form No 11A, and

(b) it shall be accompanied by the original instrument or instruments evidencing the partnership as in existence from time to time during the previous year up to the date of the application together with copies thereof. A certified copy of the instrument or instruments together with a duplicate copy thereof may be attached to the application if, for sufficient reason, the original instrument or instruments cannot be produced

(3) Where after the date of making an application under sub-rule (2), any change or changes in the constitution of the firm or the shares of the partners have taken place during the previous year, a fresh application shall be made after each such change takes place in accordance with the provisions of sub-clauses (a) and (b) of clause (ii) of sub-rule (2) and the time limit prescribed in sub-section (4) of section 184 shall apply to each such application

(4) Where the application is made after the end of the relevant previous year—

(i) and where no change in the constitution of the firm or the shares of the partners has taken place during the said previous year and up to the date of the application, the application shall be made in accordance with the provisions of sub-clauses (a) and (b) of clause (i) of sub-rule (2),

(ii) and where any change or changes in the constitution of the firm or the shares of the partners have taken place during the said previous year and/or after the end of the previous year but before the date of the application—

(a) the application shall be made in Form No 11A, and

(b) it shall be accompanied by the original instrument or instruments evidencing the partnership as in existence from time to time during the previous year and up to the date of the application together with copies thereof A certified copy of the instrument or instruments together with a duplicate copy thereof may be attached to the application if, for sufficient reason, the original instrument or instruments cannot be produced

(5) The application shall be signed personally by all the partners (not being minors) in the firm as constituted at the date of the application and, in the case of a dissolved firm, personally by all the persons (not being minors) who were partners in the firm immediately before its dissolution and by the legal representative of any such partner who is deceased so, however, that in the case of any partner who is absent from

India or is a lunatic or an idiot, the application may be signed by any person duly authorised by him in this behalf, or, as the case may be, by a person entitled under law to represent him

23. Intimation regarding subsequent changes in constitution, etc.—If after the date of the application, or of the last application where more than one application are made, for registration of a firm for any assessment year and before the assessment for that assessment year is completed by the Income-tax Officer, so far as known to the firm, any change or changes take place in the constitution of the firm or the shares of the partners, the details of such change or changes shall be communicated by the firm to the Income-tax Officer as soon as possible after each such change takes place

24. Declaration for continuation of registration.—The declaration to be furnished under sub-section (7) of section 184 shall be in Form No 12 and shall be verified in the manner indicated therein and shall be signed by the persons concerned in accordance with sub-rule (5) of rule 22

25. Certificate of registration.—The certificate under sub-section (4) of section 185 shall be recorded on the last of the instruments evidencing the partnership during the relevant previous year (or on the certified copy submitted in lieu thereof) attached with the application for registration of the firm made in accordance with sub-rules (2) to (4) of rule 22

PART VI

DEDUCTION OF TAX AT SOURCE

26. Prescribed rate of exchange for salaries.—For the purpose of deduction of tax at source on salary payable in foreign currency, the prescribed rate of exchange for the calculation of the value in rupees of any income chargeable under the head "Salaries" which is payable to the assessee outside India by or on behalf of the Government shall be as follows, namely —

(*a*) in respect of such income payable before the 6th day of June, 1966—

(*i*) 1 sh 6d =Re 1/-,

(*ii*) $ 1 U S =Rs 4 762,

(*b*) in respect of such income payable on or after the 6th day of June, 1966—

(*1*) where the income is payable—

(*i*) before the 19th day of November, 1967,
£ 1 Sterling=Rs 21 00,

(*ii*) after the 18th day of November, 1967,
£ 1 Sterling=Rs 18 00,

(*2*) U S $ 1=Rs 7 50

27. Prescribed arrangements for declaration and payment of dividends within India.—The arrangements referred to in sections 80B, 194, 195, 236 and 286 to be made by a company for the declaration and payment of dividends (including dividends on preference shares) within India shall be as follows —

(*1*) The share-register of the company for all shareholders shall be regularly maintained at its principal place of business within India, in respect of any assessment year from a date not later than the 1st day of April of such year

(*2*) The general meeting for passing the accounts of the previous year relevant to the assessment year and for declaring any dividends in respect thereof shall be held only at a place within India

(*3*) The dividends declared, if any, shall be payable only within India to all shareholders

28. Applications for certificates for deduction of tax at lower rates.—(1) An application by a person other than a company for a certificate under clause (*a*) of sub-section (1) of section 197 in respect of interest on securities shall be made in Form No. 13

(1A) An application by a person, other than a company, for a certificate under clause (*a*) of sub-section (1) of section 197 in respect of interest other than "Interest on securities" shall be made in Form No 13A.

(1B) An application by a person, other than a company, for a certificate under clause (*a*) of sub-section (1) of section 197 in respect of income by way of winnings from lottery or crossword puzzle shall be made in Form No 13B

(1C) An application by a contractor or sub-contractor for a certificate under sub-section (4) of section 194C in respect of income comprised in payments to contractors and sub-contractors shall be made in Form No 13C

(1D) An application by a person for a certificate under clause (*a*) of sub-section (1) of section 197 in respect of income by way of insurance commission shall be made in Form No 13D.

Explanation—In this sub-rule and in rules 30, 31 and 37, "insurance commission" means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance)

(2) An application by a person, other than a company, for a certificate under the proviso to section 194 shall be made in Form No 14

(3) An application by a person, other than a company, for a certificate under clause (*b*) of sub-section (1) of section 197 shall be made in Form No 14A

29. Certificate of no deduction of tax or deduction at lower rates from dividends.—(1) The Income-tax Officer may give a certificate in accordance with the proviso to section 194 or clause (*b*) of sub-section (1) of section 197 authorising the payment of a dividend to a shareholder, other than a company, without deduction of tax or, as the case may be, after deduction of tax at rates lower than the rates in force only if the following conditions are satisfied, namely —

(*a*) The shares in respect of which the certificate is sought for by him—

(*i*) are shares in public companies, and

(*ii*) stand in his name and are beneficially owned by him, and the dividends therefrom are not includible in the total income of any other person under sections 60 to 64,

or

stand in his name and are held by him under trust wholly for charitable or religious purposes, and the dividends therefrom are exempt from tax under the provisions of sections 11 and 13

(*b*) An application for the certificate is made to the Income-tax Officer in accordance with sub-rule (2) or sub-rule (3), as the case may be, of rule 28

(2) The certificate shall be valid for such period (not exceeding three years from the date of certificate), as the Income-tax Officer may specify therein, unless it is cancelled by him at any time before the expiry of the specified period. An application

for a fresh certificate may be made, if required, after the expiry of the period of validity of the earlier certificate

(3) The certificate shall be valid only for the person named therein, and shall cease to be operative from the date of notice to the company of the transfer of any of the shares mentioned therein to another person, in respect of the shares so transferred

(4) The certificate shall be issued direct to the principal officer of the company under advice to the applicant shareholder

(5) The certificate shall be issued in Form No. 15

29A. Statement by person claiming receipt of interest other than "Interest on securities" without deduction of tax.—The statement in writing to be furnished under the proviso to sub-section (1) of section 194A shall be in Form No. 15A and shall be verified in the manner indicated therein

29B. Application for certificate authorising receipt of interest and other sums without deduction of tax.—(1) Any person entitled to receive any interest, or other sum, on which income-tax has to be deducted under sub-section (1) of section 195 may, if he fulfils the conditions specified in sub-rule (2), make an application for the grant of a certificate under sub-section (3) of section 195 authorising him to receive without deduction of tax under sub-section (1) of that section any such income as is specified hereinbelow, namely—

(*i*) where the person concerned is a banking company which is neither an Indian company nor a company which has made the prescribed arrangements for the declaration and payment of dividends within India, and which carries on operations in India through a branch, any income by way of interest, not being "Interest on securities", or any other sum, not being dividends,

(*ii*) in the case of any other person who carries on a business or profession in India through a branch, any sum, not being interest or dividends,

in so far as such interest or other sum is receivable by such branch on its own account and not on behalf of its head office or any branch situated outside India, or any other person

(2) The conditions referred to in sub-rule (1) are the following namely —

(*i*) the person concerned has been regularly assessed to income-tax in India and has furnished the returns of income for all assessment years for which such returns became due on or before the date on which the application under sub-rule (1) is made,

(*ii*) he is not in default or deemed to be in default in respect of any tax (including advance tax and tax payable under section 140A), interest, penalty, fine, or any other sum payable under the Act,

(*iii*) he has not been subjected to penalty under clause (*iii*) of sub-section (1) of section 271,

(*iv*) where the person concerned is not a banking company referred to in clause (*i*) of sub-rule (1)—

(*a*) he has been carrying on business or profession in India continuously for a period of not less than five years immediately preceding the date of the application, and

(*b*) the value of the fixed assets in India of such business or profession as shown in his books for the previous year which ended immediately before the date of the application or, where the accounts in respect of such previous year have not been made up before the said date, the previous year immediately preceding that year, exceeds fifty lakhs of rupees.

(3) The application under sub-rule (1) by a banking company shall be in Form No. 15C and by any other person [referred to in clause (*ii*) of sub-rule (1)] shall be in Form No. 15D.

(4) The Income-tax Officer may give a certificate authorising the person concerned to receive the income specified in clause (*i*) or clause (*ii*) of sub-rule (1), without deduction of tax under sub-section (1) of section 195, if he is satisfied that all the conditions laid down in sub-rule (2) are fulfilled and the issue of any such certificate will not be prejudicial to the interests of revenue

(5) The certificate shall be valid for the financial year specified therein, unless it is cancelled by the Income-tax Officer at any time before the expiry of the said financial year. An application for a fresh certificate may be made, if required, after the expiry of the period of validity of the earlier certificate, or within three months before the expiry thereof

(6) The certificate shall be in Form No 15E

30. Time and mode of payment to Government account of tax deducted at source.—(1) All sums deducted in accordance with the provisions of sections 192 to 194, section 194A, section 194B, section 194C, section 194D and section 195 shall be paid to the credit of the Central Government—

(*a*) in the case of deduction by or on behalf of the Government, on the same day,

(*b*) in all other cases,—

(*i*) in respect of sums deducted in accordance with the provisions of section 194A, section 194C and section 194D,—

(*1*) where the income by way of interest referred to in section 194A or the sum referred to in section 194C or the income by way of insurance commission referred to in section 194D is credited by a person carrying on a business or profession to the account of the payee as on the date up to which the accounts of such business or profession are made, within two months of the expiration of the month in which that date falls,

(*2*) in any other case, within one week from the last day of the month in which the deduction is made, and

(*ii*) in respect of sums deducted in accordance with the other provisions, within one week from the date of such deduction or the date of receipt of the chalan by the person making the deduction, as the case may be

Provided that the Income-tax Officer may, in special cases, and with the approval of the Inspecting Assistant Commissioner,—

(*a*) in cases falling under clause (*i*), permit any person to pay the income-tax deducted from any income by way of interest, other than income chargeable under the head "Interest on securities" or any income by way of insurance commission quarterly on July 15th, October 15th, January 15th and April 15th, and

(*b*) in cases falling under clause (*ii*), permit an employer to pay income-tax deducted from any income chargeable under the head "Salaries" quarterly on June 15th, September 15th, December 15th and March 15th

(2) The person responsible for making the deduction from any income chargeable under the head "Salaries" or, in cases covered by sub-section (5) of section 192, the trustees shall pay the amount of tax so deducted to the credit of the Central Government by remitting it within the time prescribed in sub-rule (1) into the Government Treasury or office of the Reserve Bank of India or of the State Bank of India accompanied by an income-tax chalan, blank copies of which shall be supplied by the Income-tax Officer on request for the purpose

Provided that on receipt of the return referred to in rule 32 or rule 33 the Income-tax Officer may, if so expressly requested and if satisfied that there is sufficient ground for the request, himself have the necessary chalans prepared and forwarded to the person concerned, who shall thereupon pay the amount to the credit of the Central Government in the manner above described

Provided further that where the deduction is made by or on behalf of Government, the amounts shall be credited within the time and in the manner aforesaid without the production of a chalan

(3) The person responsible for making deduction under sections 193, 194, 194A, 194B, 194C, 194D and 195 shall pay the amount of tax so deducted to the credit of the Central Government by remitting it within the time prescribed in sub-rule (1) into the Government Treasury or office of the Reserve Bank of India or the State Bank of India accompanied by an income-tax chalan, blank copies of which will be supplied by the Income-tax Officer on request for the purpose, provided that where the deduction is made by or on behalf of Government the amount shall be credited within the time and in the manner aforesaid without the production of a chalan

30A Credit for tax deducted at source to a person other than the shareholder in certain circumstances.—(1) Subject to the provisions of sub-rule (2), where the dividend on any share is assessable as the income of a person other than the shareholder, any deduction made in accordance with section 194 and paid to the Central Government, shall be deemed to be a payment of tax on behalf of, and the credit in respect thereof shall be given to, such other person in the circumstances specified below, namely —

(*i*) where a company has a right to appoint any person or persons, or where any nominee or nominees of the company has or have been appointed, as a director or directors of any other body corporate, and shares owned by such company in such other body corporate, to an amount not exceeding the nominal value of the shares which are required to be held by a director thereof, are registered in the name of any such person or nominee,

(*ii*) where a company owns any shares in its subsidiary and such shares are registered in the name or names of any nominee or nominees of the company, if and in so far as it is necessary so to do, to ensure that the number of members of the subsidiary is not reduced, where it is a public company, below seven, and where it is a private company, below two,

(*iii*) where a corporation established by or under a Central, State or Provincial Act owns any shares in a company and such shares are registered in the name or names of any nominee or nominees of the corporation in the circumstances specified in clause (*i*) or clause (*ii*),

(iv) where any person deposits, with any bank, including a co-operative bank or a land mortgage bank, any shares owned by him, for the collection of dividends thereon and such shares are registered in the name of the bank,

(v) where any person deposits with any other person any shares owned by him, by way of security for the repayment of any loan or the performance of any obligation and such shares are held by, or on behalf of, any of the following, namely —

(a) the Government or the Reserve Bank of India or any body corporate owned by the Government, or the Reserve Bank of India, or in which not less than forty per cent of the shares are held (whether singly or taken together) by the Government or the Reserve Bank of India or a corporation owned by that bank,

(b) a local authority,

(c) the State Bank of India constituted under the State Bank of India Act, 1955 (XXIII of 1955), or any of its subsidiary banks,

(d) any banking company, including a co-operative bank or a land mortgage bank,

(e) the Industrial Finance Corporation of India, the Industrial Credit and Investment Corporation of India Ltd , the Madras Industrial Investment Corporation Ltd , and the Refinance Corporation for Industry Ltd ,

(f) a State Financial Corporation established under the State Financial Corporations Act, 1951 (LXIII of 1951),

(g) an Industrial Development Corporation established in India by a State Government,

(h) the Life Insurance Corporation of India established under the Life Insurance Corporation of India Act, 1956 (XXXI of 1956),

(i) the Industrial Development Bank of India, established under the Industrial Development Bank of India Act, 1964 (XVIII of 1964),

(vi) where shares are held by a trustee appointed under a trust declared by a duly executed instrument in writing whether testamentary or otherwise [including any wakf deed which is valid under the Mussalman Wakf Validating Act, 1913 (VI of 1913)] and the dividend thereon is received by the trustee on behalf of, or for the benefit of, any person who is a beneficiary of the trust,

(vii) where the shares owned by a firm are held in the name of any of its partners,

(viii) where the shares owned by a Hindu undivided family are held in the name of the Karta or any other adult member of the family,

(ix) where the shares have been sold or otherwise transferred by the registered shareholder and action for registering the transfer in the name of the purchaser or other person has been taken in accordance with the provisions of section 108 of the Companies Act, 1956 (I of 1956),

(x) where the shares owned by a member of a recognised Stock Exchange in India deposited with the Stock Exchange in accordance with the

regulations of the Exchange are registered in the name of the trustees of the Exchange or the bankers of the Exchange

(2) The credit referred to in sub-rule (1) shall not be given unless the person entitled to such credit furnishes to the Income-tax Officer a declaration in Form No 15B made by him and the shareholder concerned, together with a certificate of deduction of tax at source in Form No 19

31. Certificates of tax deducted at source.—(1) The certificate of deduction of tax to be furnished under section 203 by any person paying income chargeable under the head "Salaries" shall be in Form No 16

(2) The certificate of deduction of tax to be furnished under section 203 by any person paying interest on a security of the Central Government or of a State Government, shall be in Form No 17

(3) The certificate of deduction of tax to be furnished under section 203 by any person paying interest on debentures or other securities for money issued by or on behalf of a local authority or a company or a corporation established by a Central, State or Provincial Act shall be in Form No 18

(4) The certificate of deduction of tax to be furnished by the principal officer of a company under section 203 in respect of dividends shall be in Form No 19.

(4A) The certificate of deduction of tax to be furnished under section 203 by any person responsible for paying any income by way of interest, other than income chargeable under the head "Interest on securities", shall be in Form No 19A

(4B) The certificate of deduction of tax to be furnished under section 203 by any person responsible for paying any income by way of winnings from lottery or crossword puzzle shall be in Form No 19B

(4C) The certificate of deduction of tax to be furnished under section 203 by any person responsible for paying any sum to a contractor or sub-contractor shall be in Form No 19C

(4D) The certificate of deduction of tax to be furnished under section 203 by any person responsible for paying any income by way of insurance commission shall be in Form No 19D

(5) The certificate of deduction of tax to be furnished under section 203 by any person paying any sum, not being a sum referred to in sub-rules (1) to (4D), chargeable under the provisions of the Act shall be in Form No 20

32. Monthly return of deduction of tax from "Salaries".—(1) In the case of income chargeable under the head "Salaries" where deduction is made except by or on behalf of Government, the person responsible for paying the income shall forthwith send a return in Form No 21 to the Income-tax Officer specified in sub-rule (2)

(2) The return referred to in sub-rule (1) shall be sent—

(*i*) in cases where the jurisdiction over the employees has been vested in any particular Income-tax Officer under section 126, to that Income-tax Officer,

(*ii*) in any other case, to the Income-tax Officer within whose area of jurisdiction the office of the person responsible for paying the salaries is situated (or where there is more than one Income-tax Officer having jurisdiction in the same area, the Income-tax Officer specified by the Commissioner)

(3) The return referred to in sub-rule (1) shall, in the cases covered by clause (*ii*) of sub-rule (2), be drawn up in separate parts one for each place where the employees are stationed and an additional extract of those parts relating to employees who are residing outside the jurisdiction of the Income-tax Officer referred to in the said clause shall also be sent with the return

33. Return of deduction of tax from contributions paid by the trustees of an approved superannuation fund.—(1) In cases where the trustees of an approved superannuation fund pay any contributions made by an employer, including interest on such contributions, to an employee during his life-time, they shall forthwith send to the Income-tax Officer specified in sub-rule (2) of rule 32, a return in Form No 22

(2) The provisions of sub-rule (3) of rule 32 shall apply in relation to the return referred to in sub-rule (1) as they apply in relation to the return referred to in sub-rule (1) of rule 32

34. Return in lieu of monthly return under rule 32.—*In the case of income* chargeable under the head "Salaries" where deduction is made except by or on behalf of Government, the Commissioner may, in his discretion, waive the requirement of rule 32 regarding the submission of the detailed monthly return subject to the following conditions and any other condition which he may prescribe —

(*i*) a certificate in Form No 23 shall be furnished to the Income-tax Officer mentioned in sub-rule (2) of rule 32 immediately after the end of each month,

(*ii*) in the case of an employee leaving service, the particulars in Form No 21 shall be sent forthwith to the Income-tax Officer aforesaid

35. Annual return of salaries paid and tax deducted therefrom.—(1) The return to be delivered to the Income-tax Officer under sub-section (1) of section 206 within thirty days from the 31st day of March in each year shall be prepared in Form No 24 and shall be verified in the manner indicated therein

(2) The return referred to in sub-rule (1) shall be delivered to the Income-tax Officer specified in sub-rule (2) of rule 32

(3) The provisions of sub-rule (3) of rule 32 shall apply in relation to the return referred to in sub-rule (1) as they apply in relation to the return referred to in sub-rule (1) of rule 32

(4) The minimum income under the head "Salaries" referred to in clause (*a*) of sub-section (1) of section 206 shall be Rs 600 less than the maximum amount which, if it were the total income, would be exempt from tax in the hands of an individual in the financial year in which the income is earned

Provided that in any case in which any tax was deducted at source from payments chargeable under the head "Salaries" full particulars thereof shall be included in the return prescribed in sub-rule (1)

36. Prescribed persons for section 206.—In the case of offices of the Government the return under sub-section (1) of section 206 shall be furnished by—

(*a*) Civil Audit Officers/Pay and Accounts Officers for all Gazetted Officers and others who draw their pay from audit offices/Pay and Accounts Offices on separate bills, and also for all pensioners who draw their pensions from audit offices,

(*b*) Treasury Officers for all gazetted officers and others who draw their pay from treasuries on separate bills without counter-signature and also for all pensioners who draw their pensions from treasuries,

(c) heads of Civil or Military offices for all non-gazetted officers whose pay is drawn on establishment bills or on bills countersigned by the head of office,

(d) Forest Disbursing Officers and Public Works Department Disbursing Officers in cases where direct payment from treasuries is not made, for themselves and their establishments,

(e) Head Postmasters for (i) themselves, their gazetted subordinates and the establishments of which the establishment pay bills are prepared by them and (ii) gazetted supervising and controlling officers of whose headquarters post office they are in-charge and (iii) pensioners drawing their pensions through post offices, Head record clerks for themselves and all the staff whose pay is drawn in their establishment pay bills, Divisional Engineers in respect of Telegraph and Telephone Engineering Divisions, Accounts Officers, Stores and Workshops for the Stores and Workshops organisation and the Disbursing Officers in the case of the Administrative and Audit offices,

(f) (i) Controllers of Defence Accounts for Defence Services Officers and others including civilian Gazetted Officers under their payment control,

(ii) Officer Commanding Air Force Central Accounts Office, New Delhi —for Air Force Officers and others for whom IRLAs are maintained by them,

(iii) Supply Officer in-charge Naval Pay Office, Bombay—for Navy Officers and ratings for whom IRLAs are maintained by them,

(iv) Chief Accounting Officer, London—for Defence Services Personnel serving in or attached to High Commission in U K ,

(g) the Financial Adviser and Chief Accounts Officer/Deputy Financial Adviser and Chief Accounts Officer of the Railways concerned for all Railway employees including the employees of the Railway Audit Department under their payment control,

(h) heads of offices in the Missions and Posts abroad for themselves and for all gazetted and other officers under their administrative control,

(i) Trade Commissioners abroad, wherever their establishments are independent of the Missions, for themselves and for all gazetted and other officers under their administrative control,

(j) the Chief Accounts Officers, India Supply Mission, Washington, and India Stores Department, London, for themselves and for the gazetted and other officers under their administrative control,

(k) the Directors/Managers of the Tourist offices abroad, for themselves and for the gazetted and other officers under their administrative control

37. Returns regarding tax deducted at source in other cases.—(1) In the case of income chargeable under the head "Interest on securities" where the deduction is not made by or on behalf of the Government, the person making deduction of tax under section 193 shall within fourteen days of the date of deduction send to the Income-tax Officer having jurisdiction to assess him a statement in Form No. 25.

(2) The person making deduction of tax in accordance with section 194 from dividends shall within fourteen days of the date of deduction send to the Income-tax Officer assessing the company a statement in Form No 26

(2A) The person making deduction of tax in accordance with section 194A from income by way of interest other than income chargeable under the head "Interest on securities" shall send to the Income-tax Officer having jurisdiction to assess him a statement in Form No 26A quarterly on July 15th, October 15th, January 15th and April 15th in respect of the deduction made by him during the immediately preceding quarter

Provided that in respect of tax deducted in cases to which item *(1)* of sub-clause *(i)* of clause *(b)* of sub-rule (1) of rule 30 applies, the particulars shall be furnished in the statement relating to the quarter next following the quarter in which the deduction is made

(2B) The person making deduction of tax in accordance with section 194B from income by way of winnings from lottery or crossword puzzle shall send to the Income-tax Officer having jurisdiction to assess him a statement in Form No 26B quarterly on July 15th, October 15th, January 15th and April 15th in respect of the deduction made by him during the immediately preceding quarter

(2C) The person making deduction of tax in accordance with section 194C from payments made to any contractor or sub-contractor shall send to the Income-tax Officer having jurisdiction to assess him a statement in Form No 26C quarterly on July 15th, October 15th, January 15th and April 15th in respect of the deduction made by him during the immediately preceding quarter

Provided that in respect of tax deducted in cases to which item *(1)* of sub-clause *(i)* of clause *(b)* of sub-rule (1) of rule 30 applies, the particulars shall be furnished in the statement relating to the quarter next following the quarter in which the deduction is made

(2D) The person making deduction of tax in accordance with section 194D from income by way of insurance commission shall send to the Income-tax Officer having jurisdiction to assess him—

(a) a certificate in Form No 26D quarterly on July 15th, October 15th, January 15th and April 15th in respect of the deduction made by him during the immediately preceding quarter

Provided that in respect of tax deducted in cases to which item *(1)* of sub-clause *(i)* of clause *(b)* of sub-rule (1) of rule 30 applies, the particulars shall be furnished in the certificate relating to the quarter next following the quarter in which the deduction is made,

(b) a statement in Form No 26E on or before the 30th day of June in each year in respect of the deduction made by him during the immediately preceding financial year,

(c) a statement in Form No 26F on or before the 30th day of June in each year in respect of the insurance commission credited or paid during the immediately preceding financial year without deduction of tax

(3) The person making deduction of tax in accordance with sections 193, 194 and 195 from any payment made to—

(i) a person, not being a company, who is a non-resident or a resident but not ordinarily resident, or

(ii) a company which is neither an Indian company nor a company which has made the prescribed arrangements for the declaration and payment of dividends within India,

shall within fourteen days of the date of deduction send to the Income-tax Officer having jurisdiction to assess him a statement in Form No. 27.

37A. Return of interest paid to residents without deduction of tax.—The return to be delivered to the Income-tax Officer under section 206A within thirty days from the 31st day of March in each year, shall be prepared in Form No. 27A and shall be verified in the manner indicated therein

PART VII

PAYMENT OF ADVANCE TAX

38. Notice of demand.—Notwithstanding anything contained in rule 15, the notice of demand under section 156 to be served upon the assessee in pursuance of an order under section 210 shall be in Form No. 28.

39. Estimate of advance tax.—The estimate which an assessee has to send to the Income-tax Officer under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (3A) of section 212 shall be in Form No 29.

40. Waiver of interest.—The Income-tax Officer may reduce or waive the interest payable under section 215 or section 217 in the cases and under the circumstances mentioned below, namely—

(*1*) When the relevant assessment is completed more than one year after the submission of the return, the delay in assessment not being attributable to the assessee

(*2*) Where a person is under section 163 treated as an agent of another person and is assessed upon the latter's income.

(*3*) Where the assessee has income from an unregistered firm assessed under the provisions of clause (*b*) of section 183

(*4*) Where the previous year is the financial year or any year ending about the close of the financial year and large profits are made after the 1st March (or the 15th March in cases where the proviso to section 211 applies) in circumstances which could not be foreseen

(*5*) Any case in which the Inspecting Assistant Commissioner considers that the circumstances are such that a reduction or waiver of the interest payable under section 215 or section 217 is justified.

PART VII-A

TAX CREDIT

40A. Claim for credit.—(1) A claim for credit under section 54A shall be made in Form No 29A and shall contain the particulars specified therein

(2) The claim shall be signed, in the case of an individual, by the individual himself, and in the case of a company, by the principal officer thereof

(3) The claim under sub-rule (1) shall be made to the Income-tax Officer exercising jurisdiction under the Act in the case of the claimant

PART VIII

REFUNDS

41. Refund claim.—(1) A claim for refund under Chapter XIX shall be made in Form No. 30.

(2) The claim under sub-rule (1) shall be accompanied by a return in the form prescribed under section 139 unless the claimant has already made such a return to the Income-tax Officer.

(3) Where any part of the total income of a person making a claim for refund of tax consists of dividends or any other income from which tax has been deducted under the provisions of sections 192 to 194, section 194A and section 195, the claim shall be accompanied by the certificates prescribed under section 203

(4) The claim under sub-rule (1) may be presented by the claimant in person or through a duly authorised agent or may be sent by post

PART IX

TAX CLEARANCE CERTIFICATES

42. Application for tax clearance certificate.—(1) An application under section 230 for a tax clearance certificate or an exemption certificate may be made in Form No 31 to any competent authority

(2) Where the applicant is a person domiciled in India or is a person who has been assessed by an Income-tax Officer anywhere in India, the application shall be accompanied by an authorisation in Form No 32 to be obtained by the applicant from the Income-tax Officer who has jurisdiction to assess him

43. Form of certificate.—(1) A tax clearance certificate issued under sub-section (1) of section 230 shall be in Form No 33 and shall be valid for the period mentioned therein

(2) An exemption certificate issued under the proviso to sub-section (1) of section 230 shall be in Form No 34 and shall be valid for the period mentioned therein

44. Production of certificate.—Any person leaving India shall, at the request of any Customs Officer, produce to him for examination the tax clearance certificate or the exemption certificate, as the case may be

44A. Application for tax clearance certificate for registration of documents in certain cases.—An application under sub-section (2) of section 230A for a certificate under sub-section (1) of that section shall be made in duplicate in Form No 34A to the Income-tax Officer

44B. Grant of tax clearance certificate or refusal.—Within 60 days of the receipt of the application referred to in rule 44A, the Income-tax Officer shall—

(*i*) if he is satisfied that the applicant has either paid or made satisfactory provision for payment of all existing liabilities under the enactments specified in clause (*a*) of sub-section (1) of section 230A or that the registration of the document referred to in the application will not prejudicially affect the recovery of any such liability, grant the certificate and forward the same to the registering officer concerned, or

(*ii*) if he is not so satisfied, pass an order in writing refusing to grant the certificate, recording his reasons therefor

PART X

APPEALS

45. Form of appeal to Appellate Assistant Commissioner.—(1) An appeal under—

(*i*) section 55A, read with clause (*ha*) of sub-section (1) of section 23 of the Wealth-tax Act, 1957 (XXVII of 1957), or

(*ii*) section 246, or

(*iii*) section 247, or

(*iv*) section 248,

to the Appellate Assistant Commissioner shall be made in Form No 35

(2) The form of appeal prescribed by sub-rule (1), the grounds of appeal and the form of verification appended thereto shall be signed—

(*a*) in the case of an individual, by the individual himself, where the individual is absent from India, by the individual concerned or by some person duly authorised by him in this behalf, and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf,

(*b*) in the case of a Hindu undivided family, by the *karta*, and, where the *karta* is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family,

(*c*) in the case of a company or local authority, by the principal officer thereof,

(*d*) in the case of a firm, by any partner thereof, not being a minor,

(*e*) in the case of any other association, by any member of the association or the principal officer thereof, and

(*f*) in the case of any other person, by that person or by some person competent to act on his behalf

46. Mode of service.—(1) The intimation of any such order as is referred to in clause (*c*) of sub-section (2) of section 249 shall be served in the same manner as is laid down in section 282 for the service of a notice or requisition

(2) Any other order, not being a notice or requisition, which is to be sent or communicated to, or served on, any person shall be sent, communicated or served either by post or as if it were a summons issued by a court under the Code of Civil Procedure, 1908 (V of 1908)

46A. Production of additional evidence before the Appellate Assistant Commissioner.—(1) The appellant shall not be entitled to produce before the Appellate Assistant Commissioner any evidence, whether oral or documentary, other than the evidence produced by him during the course of proceedings before the Income-tax Officer, except in the following circumstances, namely —

(*a*) where the Income-tax Officer has refused to admit evidence which ought to have been admitted, or

(*b*) where the appellant was prevented by sufficient cause from producing the evidence which he was called upon to produce by the Income-tax Officer, or

(*c*) where the appellant was prevented by sufficient cause from producing before the Income-tax Officer any evidence which is relevant to any ground of appeal, or

(*d*) where the Income-tax Officer has made the order appealed against without giving sufficient opportunity to the appellant to adduce evidence relevant to any ground of appeal

(2) No evidence shall be admitted under sub-rule (1) unless the Appellate Assistant Commissioner records in writing the reasons for its admission.

(3) The Appellate Assistant Commissioner shall not take into account any evidence produced under sub-rule (1) unless the Income-tax Officer has been allowed a reasonable opportunity—

(*a*) to examine the evidence or document or to cross-examine the witness produced by the appellant, or

(*b*) to produce any evidence or document or any witness in rebuttal of the additional evidence produced by the appellant

(4) Nothing contained in this rule shall affect the power of the Appellate Assistant Commissioner to direct the production of any document, or the examination of any witness, to enable him to dispose of the appeal, or for any other substantial cause including the enhancement of the assessment or penalty (whether on his own motion or on the request of the Income-tax Officer) under clause (*a*) of sub-section (1) of section 251 or the imposition of penalty under section 271

47. Form of appeal and memorandum of cross-objections to Appellate Tribunal.—(1) An appeal under sub-section (1) or sub-section (2) of section 253 to the Appellate Tribunal shall be made in Form No 36, and where the appeal is made by the assessee, the form of appeal, the grounds of appeal and the form of verification appended thereto shall be signed by the person specified in sub-rule (2) of rule 45

(2) A memorandum of cross-objections under sub-section (4) of section 253 to the Appellate Tribunal shall be made in Form No 36A, and where the memorandum of cross-objections is made by the assessee, the form of memorandum of cross-objections, the grounds of cross-objections and the form of verification appended thereto shall be signed by the person specified in sub-rule (2) of rule 45

48. Form of application for reference to High Court.—An application under sub-section (1) of section 256 requiring the Appellate Tribunal to refer to the High Court any question of law shall be made in Form No 37

PART X-A

ANNUITY DEPOSITS

48A. Notice of demand.—Notwithstanding anything contained in rule 15, the notice of demand under section 156 in respect of annuity deposit referred to in Chapter XXII-A, to be served upon a depositor (to whom the provisions of that Chapter apply)—

(*i*) in pursuance of an order under section 280F, shall be in Form No 37A,

(*ii*) in pursuance of an order under section 280K, shall be in Form No 37B,

(*iii*) in any other case, shall be in Form No 37C.

48B. Estimate of advance deposit.—The estimate which a depositor has to send to the Income-tax Officer under section 280H shall be in Form No. 37D

48C. Estimate of annuity deposit for the assessment year 1964-65.—The estimate which a depositor has to send to the Income-tax Officer under sub-section (1) of section 280L shall be in Form No 37E

Explanation —The provisions of rule 48A, rule 48B and this rule shall not apply in respect of annuity deposit in relation to the assessment year commencing on the 1st day of April, 1967, or any subsequent assessment year

PART X-B

ACQUISITION OF IMMOVABLE PROPERTIES UNDER CHAPTER XX-A

48D. Jurisdiction of competent authorities.—Where any immovable property is situate within the local limits of the jurisdiction of two or more competent authorities, the competent authority within whose jurisdiction the office of the registering officer who registered the instrument of transfer in respect of such property is situate shall be the competent authority to perform the functions of competent authority under Chapter XX-A in relation to such property

48E. Manner of publication of notice for acquisition.—The substance of the notice under sub-section (1) of section 269D in respect of any immovable property shall be made known in the locality in which such property is situate by proclamation in the language of the District by beat of drum or other customary mode.

48F. Form of appeal to the Appellate Tribunal.—An appeal under section 269G to the Appellate Tribunal shall be in Form No. 37F and the form of appeal, the grounds of appeal and the form of verification appended thereto shall be signed by the person specified in sub-rule (2) of rule 45.

48G. Statement to be furnished in respect of transfers of immovable property.—The statement required to be furnished to the registering officer under sub-section (1) of section 269P shall be in Form No 37G, and shall be signed and verified by the transferee in the manner indicated therein

48H. Form of fortnightly return to be forwarded by registering officer to the competent authority.—The return to be forwarded by the registering officer to the competent authority under clause (*b*) of sub-section (2) of section 269P shall be in Form No 37H and be verified in the manner indicated therein

PART XI

AUTHORISED REPRESENTATIVES

49. Definitions.—In this part—

(*a*) "authorised income-tax practitioner" means any authorised representative as defined in clause (*v*) or clause (*vi*) or clause (*vii*) of sub-section (2) of section 288,

(*b*) "prescribed authority" means the prescribed authority referred to in rule 52,

(*c*) "register" means the register of income-tax practitioners referred to in rule 53

50. Accountancy examinations recognised.—The following accountancy examinations are recognised for the purpose of clause (*v*) of sub-section (2) of section 288, namely.—

(*1*) The National Diploma in Commerce awarded by the All-India Council for Technical Education under the Ministry of Education, New Delhi, provided the diploma-holder has taken Advanced Accountancy and Auditing as an elective subject for the Diploma Examination

(*2*) Government Diploma in Company Secretaryship awarded by the Department of Company Affairs under the Ministry of Industrial Development and Company Affairs, New Delhi

(*3*) The Final Examination of the Institute of Cost and Works Accountants of India constituted under the Cost and Works Accountants Act, 1959 (XXIII of 1959)

51. Educational qualifications prescribed.—The following educational qualifications are prescribed for the purpose of clause (*vi*) of sub-section (2) of section 288 —

A degree in Commerce or Law conferred by any of the following Universities —

I Indian Universities

Any Indian University incorporated by any law for the time being in force

II. Rangoon University.

III English and Welsh Universities

The Universities of Birmingham, Bristol, Cambridge, Durham, Leeds, Liverpool, London, Manchester, Oxford, Reading, Sheffield and Wales

IV Scottish Universities

The Universities of Aberdeen, Edinburgh, Glasgow and St Andrews.

V Irish Universities

The Universities of Dublin (Trinity College), the Queen's University, Belfast and the National University of Dublin

VI Pakistan Universities

Any Pakistan University incorporated by any law for the time being in force

52. Prescribed authority for section 288(5)(b).—For the purposes of clause (*b*) of sub-section (5) of section 288, the "prescribed authority" shall be the Commissioner having jurisdiction over the case in the proceedings connected with which the income-tax practitioner is alleged to be guilty of misconduct.

53. Register of income-tax practitioners.—Every Commissioner shall maintain in Form No 38 a register of authorised income-tax practitioners to whom certificates of registration have been issued by him under rule 55

54. Application for registration.—(1) Any person who wishes to have his name entered as an authorised income-tax practitioner in the register shall apply to the Commissioner within whose area of jurisdiction he has been practising The application shall be made in Form No 39 and shall be accompanied by documentary evidence regarding his eligibility for income-tax practice under clause (*v*) or clause (*vi*) or clause (*vii*) of sub-section (2) of section 288

(2) The applicant shall also furnish such further information as the Commissioner may require in connection with the disposal of the application

55. Certificate of registration.—If the Commissioner is satisfied that the applicant fulfils the requirements of clause (*v*) or clause (*vi*) or clause (*vii*) of sub-section (2) of section 288 and has been practising before income-tax authorities for not less than one year on the date of the application, the Commissioner shall enter the name of the applicant in the register and issue him a certificate of registration in Form No 40

56. Cancellation of certificate.—(1) A certificate of registration shall stand cancelled when the name of the holder of the certificate is removed from the register under these rules

(2) When the name of the holder of the certificate is removed from the register, the Commissioner maintaining the register shall notify the fact of such removal to the authorised income-tax practitioner concerned and also to other Commissioners of Income-tax (who shall notify the fact of the removal to the income-tax authorities subordinate to them) and to the Appellate Tribunal

57 Cancellation of certificate obtained by misrepresentation.—(1) If at any time the Commissioner is satisfied that a certificate of registration was obtained by misrepresentation as to an essential fact, he shall order the removal of the name of the income-tax practitioner from the register

(2) No order under sub-rule (1) shall be passed unless the authorised income-tax practitioner has been given a reasonable opportunity of being heard in regard to the proposed removal

58. Removal of name of authorised income-tax practitioner who is insolvent or on whom penalty has been imposed.—During the period for which a person whose name has been entered in the register is in the circumstances referred to in clause (*b*) or clause (*c*) of sub-section (4) of section 288 disqualified to represent an assessee, his name shall be removed from the register and shall be re-entered only after the completion of the aforesaid period

59. Prescribed authority to order an inquiry.—No order directing that an authorised income-tax practitioner shall be disqualified to represent an assessee shall be passed under clause (*b*) of sub-section (5) of section 288 except after an inquiry held as far as may be in the manner hereinafter provided in rules 60 to 65

60. Charge-sheet.—Where the prescribed authority on the basis of information in its possession is of the opinion that *prima facie* an authorised income-tax practitioner is guilty of misconduct in connection with any income-tax proceedings, it shall frame definite charges against the income-tax practitioner and shall communicate them in writing to him together with a statement of the allegations in support of the charges The authorised income-tax practitioner shall be required to submit within such time as may be specified by the prescribed authority a written statement of his defence and also to state whether he desires to be heard in person.

61. Inquiry Officer.—The prescribed authority shall, unless it proposes to conduct the inquiry itself, appoint an Inquiry Officer, not below the rank of an Assistant Commissioner of Income-tax, to conduct the inquiry and shall inform the authorised income-tax practitioner of the appointment of such an Inquiry Officer

62. Proceedings before Inquiry Officer.—(1) On receipt of the written statement of defence, or if no such statement is received within the time specified, the Inquiry Officer shall inquire into such of the charges as are not admitted

(2) The Inquiry Officer shall, in the course of the inquiry, consider such documentary evidence and take such oral evidence as may be relevant or material in regard to the charges The authorised income-tax practitioner shall be entitled to

cross-examine witnesses examined in support of the charges and to give evidence in person If the Inquiry Officer declines to examine any witness on the ground that his evidence is not relevant or material, he shall record his reasons in writing

(3) At the conclusion of the inquiry, the Inquiry Officer shall prepare a report of the inquiry, recording his findings on each of the charges together with the reasons therefor

63. Order of the prescribed authority.—(1) The prescribed authority shall consider the report of the Inquiry Officer and record its findings on each charge and, where it does not agree with the findings of the Inquiry Officer, shall record the reasons for its disagreement

(2) If the prescribed authority is satisfied on the basis of its findings on the Inquiry Officer's report that the authorised income-tax practitioner is guilty of misconduct in connection with any income-tax proceedings, it shall pass an order directing that the authorised income-tax practitioner shall be disqualified to represent an assessee under sub-section (1) of section 288 for such period as it may determine and his name shall be removed from the register for that period

(3) The prescribed authority shall while communicating its order under sub-rule (2) furnish to the authorised income-tax practitioner a copy of the report of the Inquiry Officer and a statement of its findings together with the reasons for disagreement, if any, with the findings of the Inquiry Officer

64. Procedure if no Inquiry Officer appointed.—The procedure prescribed in the aforesaid rules shall *mutatis mutandis* apply when the prescribed authority itself conducts the inquiry without appointing an Inquiry Officer

65. Change of Inquiry Officer.—If a change of an Inquiry Officer becomes necessary in the midst of an inquiry, the prescribed authority may appoint any other Inquiry Officer not below the rank of an Assistant Commissioner of Income-tax and the proceedings shall be continued by the succeeding Inquiry Officer from the stage at which they were left by his predecessor

66. Powers of prescribed authority and Inquiry Officer.—For the purposes of any proceedings under rules 59 to 65, the prescribed authority and the Inquiry Officer shall have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 (V of 1908), when trying a suit in respect of the following matters —

(*a*) discovery and inspection,

(*b*) enforcing the attendance of any person including any officer of a banking company and examining him on oath,

(*c*) compelling the production of books of accounts and other documents, and

(*d*) issuing commissions.

PART XII

Recognised provident funds

67. Investment of fund moneys.—(1) All moneys contributed to a provident fund (whether by the employer or by the employees) after the 31st day of October, 1974, or transferred after that date from the individual account of an employee in any recognised provident fund maintained by his former employer or accruing after that date by way of interest or otherwise to the fund may be deposited in a Post Office Savings Bank account in India or in a current account with any scheduled bank,

and to the extent such moneys as are not so deposited (such moneys as are not so deposited being hereafter in this rule referred to as investible moneys) shall be invested in the manner specified in sub-rule (2).

Explanation—For the purposes of this rule and rules 85 and 101,—

(*i*) moneys received after the 31st day of October, 1974, on transfer, maturity or realisation of any security or deposit forming part of a fund or by withdrawal from any account in a bank (including a Post Office Savings Bank account) shall be deemed to be moneys accruing to the fund after that date,

(*ii*) "scheduled bank" means the State Bank of India constituted under the State Bank of India Act, 1955 (XXIII of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (XXXVIII of 1959), a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (V of 1970) or any other bank, being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (II of 1934)

(2) The manner of investment referred to in sub-rule (1) is the following, namely —

(*i*) in Government securities [as defined in section 2 of the Public Debt Act, 1944 (XVIII of 1944)] created and issued by the Central Government,	not less than 25 per cent of the investible moneys;
(*ii*) in Government securities [as defined in section 2 of the Public Debt Act, 1944 (XVIII of 1944)] created and issued by any State Government,	not less than 5 per cent. of the investible moneys,
(*iii*) in any other securities, the principal whereof and interest whereon is fully and unconditionally guaranteed by the Central Government or any State Government,	not less than 20 per cent of the investible moneys;
(*iv*) in 7-year National Savings Certificate (Second Issue and Third Issue) or in any account with the Post Office Savings Bank in accordance with the Post Office (Time Deposits) Rules, 1970,	not exceeding 30 per cent of the investible moneys,
(*v*) in the Special Deposit Scheme introduced by Notification of the Government of India in the Ministry of Finance (Department of Economic Affairs) No F 16 (I)-PD/75 dated the 30th June, 1975,	not exceeding 20 per cent of the investible moneys

Explanation—The manner of investment specified in this sub-rule shall apply to the aggregate amount of investible moneys with the fund in the previous year

67A. Nomination.—(1) An employee may be allowed by the trustees of the provident fund to make a nomination conferring on one or more persons the right to receive the amount that may stand to his credit in the provident fund in the event of his death, before that amount becomes payable or, having become payable, has

not been paid. Such a nomination shall be made in Form No 40A or in a form as near thereto as may be necessary

(2) If an employee nominates more than one person under sub-rule (1), he shall, in his nomination, specify the amount or share payable to each of the nominees in such manner as to cover the whole of the amount that may stand to his credit in the provident fund.

(3) Where an employee has a family at the time of making a nomination, the nomination shall be in favour of one or more persons belonging to his family. Any nomination made by an employee in favour of a person not belonging to his family shall be invalid.

(4) If at the time of making a nomination the employee has no family, the nomination may be in favour of any person or persons, but if the employee subsequently acquires a family, such nomination shall forthwith be deemed to be invalid and the employee may be allowed to make a fresh nomination in favour of one or more persons belonging to his family

(5) A nomination made by an employee may, at any time, be modified by him after giving a written notice to the trustees of his intention of doing so in Form No. 40B or in a form as near thereto as may be If the nominee predeceases the employee, the interest of the nominee shall revert to the employee, who may thereupon make a fresh nomination in respect of such interest

(6) A nomination or its modification shall take effect to the extent that it is valid on the date on which it is received by the trustees

Explanation—For the purposes of this rule, "family" means the employee's spouse, legitimate children, step-children and dependent parents, sisters and minor brothers

68. Circumstances in which withdrawals may be permitted.—(1) Withdrawals by employees may be allowed by the trustees of the provident fund in the following circumstances —

(*a*) to pay expenses incurred in connection with the illness of the employee or a member of his family,

(*aa*) meeting the cost of higher education, including, where necessary, the travelling expenses of any child of the employee actually dependent on him in the following cases, namely —

(*i*) education outside India for academic, technical, professional or vocational courses beyond the High School stage, and

(*ii*) any medical, engineering or other technical or specialised course in India beyond the High School stage, provided that the course of study is for not less than three years,

(*b*) to pay for the cost of passage to a place out of India of an employee or any member of his family,

(*c*) to pay expenses in connection with marriages, funerals or ceremonies, which by the religion of the employee it is incumbent upon him to perform,

(*d*) to meet the expenditure on building a house, or purchasing a site or a house and a site

Provided that the employee furnishes an undertaking to the trustees not to encumber or alienate such house or site or house and site, as the case may be,

(*e*) to pay premia on policies of insurance on the life of the employee or of his wife provided that the policy is assigned to the trustees of the Fund or at their discretion deposited with them and that the receipts granted by the insurance company for the premia are from time to time handed over to the trustees for inspection by the Income-tax Officer,

(*f*) to meet the cost of legal proceedings instituted by the employee for vindicating his position in regard to any allegations made against him in respect of any act done or purporting to be done by him in the discharge of his official duty or to meet the cost of his defence when he is prosecuted by the employer in any court of law in respect of any official misconduct on his part

Provided that the advance under this clause shall not be admissible to an employee who institutes legal proceedings in any court of law either in respect of any matter unconnected with his official duty or against the employer in respect of any condition of service or penalty imposed on him

(2) For the purposes of sub-rule (1), "family" means any of the following persons who are wholly dependent on the employee, namely —the employee's wife, legitimate children, step-children, parents, sisters and minor brothers

69. Conditions for withdrawal for various purposes.—(1) The withdrawal in connection with expenses on marriages as specified in clause (*c*) of sub-rule (1) of rule 68 shall not exceed six months' pay or the total of the accumulation of exempted contributions and exempted interest lying to the credit of the employee, whichever is less

(2) The withdrawal for the purpose specified in clause (*d*) of sub-rule (1) of rule 68 shall be subject to the following conditions —

(*i*) the amount of withdrawal shall not exceed one-half of the amount standing to the employee's credit or the actual cost of the house and/or of the site, whichever is less,

(*ii*) the employee shall have completed twenty years of service or is due to retire within the next ten years,

(*iii*) the construction of the house should be commenced within six months of the withdrawal and should be completed within one year from the date of the commencement of the construction,

(*iv*) if the withdrawal is made for the purchase of a house and/or a site for a house, the purchase should be made within six months of the withdrawal,

(*v*) if the withdrawal is made for the repayment of loan previously raised for the purpose of construction or purchase of a house, the repayment of the loan should be made within three months of the withdrawal,

(*vi*) where the withdrawal is for the construction of a house, it shall be permitted in two or more equal instalments (not exceeding four), a later instalment being permitted only after verification by the trustees about the actual utilisation of the earlier withdrawal,

(*vii*) the withdrawal shall be permitted only if the house and/or site is free from encumbrances and no withdrawal shall be permitted for purchasing a share in a joint property or building or house or land whose ownership is divided,

(*viii*) if the amount withdrawn exceeds the actual cost of the purchase or construction of the house and/or site, or if the amount is not utilised for the purpose for which it is withdrawn, the excess or the whole amount, as the case may be, shall be refunded to the trustees forthwith in one

lump sum together with interest from the month of such withdrawal at the rate prescribed in sub-rule (4) of rule 71 The amount refunded shall be credited to the employee's account in the provident fund

(3) The withdrawal for the purpose specified in clause (*f*) of sub-rule (1) of rule 68 shall not exceed three months' pay or Rs 500, whichever is greater, but shall in no case exceed half the amount to the credit of the employee

(4) The withdrawal for any other purpose referred to in sub-rule (1) of rule 68 shall not exceed three months' pay or the total of the accumulation of exempted contributions and exempted interest lying to the credit of the employee, whichever is less

(5) For the purpose of this rule, "pay" means the pay to which the employee is entitled at the time when the withdrawal is granted or, in the case of an employee referred to in sub-rule (2) of rule 5 of Part A of the Fourth Schedule, the pay (including increments, if any) which he would have received had he not entered the armed forces of the Union or been taken into or employed in the national service

70. Second withdrawal.—(1) Save as in sub-rule (2), a second withdrawal shall not be permitted until the sum first withdrawn has been fully repaid

(2) A withdrawal may be permitted—

(*a*) for any purpose specified in clause (*d*) or clause (*e*) of sub-rule (1) of rule 68 notwithstanding that the sum withdrawn earlier for any purpose has not been repaid,

(*b*) for any other purpose specified in sub-rule (1) of rule 68 notwithstanding that any sum withdrawn earlier for any purpose specified in clause (*d*) or clause (*e*) of the said sub-rule (1) has not been repaid

71. Repayment of amounts withdrawn.—(1) Subject to the provisions of clause (*viii*) of sub-rule (2) of rule 69 where a withdrawal is allowed for a purpose specified in clause (*d*) or clause (*e*) of sub-rule (1) of rule 68 the amount withdrawn need not be repaid.

(2) Where a withdrawal is allowed in connection with marriages as specified in clause (*c*) of sub-rule (1) of rule 68, the amount withdrawn shall be repaid in not more than forty-eight equal monthly instalments

(3) Where a withdrawal is allowed for any other purpose, the amount withdrawn shall be repaid in not more than twenty-four equal monthly instalments

(4) In respect of withdrawals referred to in sub-rules (2) and (3) and of the amount referred to in clause (*viii*) of sub-rule (2) of rule 69, interest shall be paid in accordance with the following Table —

TABLE

1	2
Where the amount is repaid in not more than 12 monthly instalments	One additional instalment of 4% on the amount withdrawn
Where the amount is repaid in more than 12 but not more than 24 monthly instalments	Two additional instalments of 4% on the amount withdrawn
Where the amount is repaid in more than 24 monthly instalments but not more than 36 monthly instalments	Three additional instalments of 4% on the amount withdrawn
Where the amount is repaid in more than 36 monthly instalments but not more than 48 monthly instalments	Four additional instalments of 4% on the amount withdrawn
Where the amount is refunded under clause (*viii*) of sub-rule (2) of rule 69	4% of the amount which is refundable

Provided that at the discretion of the trustees of the fund, interest may be recovered on the amount aforesaid or the balance thereof outstanding from time to time at 1 per cent above the rate which is payable for the time being on the balance in the fund at the credit of the employee.

(5) The employer shall deduct the instalments aforesaid from the employee's salary, and pay them to the trustees of the fund These deductions shall commence from the second monthly payment of salary made after the withdrawal or, in the case of an employee on leave without pay, from the second monthly payment of salary made after his return to duty

72. Amount withdrawn but not repaid may be deemed as income.—In case of default of repayment of instalments due under sub-rule (2) or sub-rule (3) or sub-rule (4) of rule 71 or where the amount withdrawn is not utilised for the purpose for which it is withdrawn, the Commissioner may at his discretion order that the amount of the withdrawal or the amount outstanding shall be added to the total income of the employee for the year in which the default occurs or the withdrawn amount is finally held not to have been utilised for the purpose for which it is withdrawn, and the Income-tax Officer shall assess the employee accordingly.

73. Withdrawal on leave preparatory to retirement.—Notwithstanding anything contained in rules 68 to 72, it shall be open to the trustees of a provident fund to permit the withdrawal of ninety per cent of the amount standing at the credit of an employee if the employee takes leave preparatory to retirement, provided that if he rejoins duty on the expiry of his leave he shall refund the amount drawn together with interest at the rate allowed by the fund

74. Accounts.—(1) The accounts of a provident fund shall be prepared at intervals of not more than twelve months

(2) An account shall be maintained for each subscriber to the fund and it shall include the particulars shown in Form No 41.

(3) Where the accounts of a provident fund are kept outside India, certified copies of the accounts shall be supplied not later than the 15th June in each year to a local representative of the employer in India.

Provided that the Income-tax Officer may in any year appoint a date later than the 15th June as the date by which the certified copies shall be supplied.

(4) An abstract for the financial year or other applicable accounting period of the individual account of each employee participating in a provident fund in respect of whom a return is required to be furnished under sub-rule (4) of rule 35 shall be furnished by the trustees to the Income-tax Officer specified in sub-rule (2) of rule 32 not later than the fifteenth day of June in each year or any other subsequent date fixed by the Income-tax Officer It shall be in the form prescribed in sub-rule (2) of this rule, but shall show only the totals of the various columns thereof for the financial year or other accounting period It shall also give an account of any temporary withdrawals by the employee during the year and of the repayment thereof Similar abstract shall also be furnished in respect of other employees participating in a provident fund who were allowed withdrawals under rules 68 to 70 or who come within the purview of sub-rule (1) of rule 75

(5) The account to be made under the provisions of sub-rule (1) of rule 11 of Part A of the Fourth Schedule shall show in respect of each employee (*i*) the total salary paid to the employee during the period of his participation in the provident fund, (*ii*) the total contributions, (*iii*) the total interest which has accrued thereon, and (*iv*) so far as may be, the percentage of the employee's salary in accordance with which contributions have been made by the employer and employee

75. Limits for contributions.—(1) Where an employee of a company owns shares in the company with a voting power exceeding ten per cent of the whole of such power, the sum of the contributions of the employee and employer to the recognised provident fund maintained by the company shall not exceed Rs 250 in any month.

(2) For the purpose of clause (*a*) of sub-rule (4) of rule 5 of Part A of the Fourth Schedule the employer's aggregate contribution in any year, including the normal contribution, to the individual account of any one employee whose salary does not exceed five hundred rupees per mensem shall not exceed double the amount of the contribution of the employee in that year

(3) The amount of the periodical bonuses and other contributions of a contingent nature which may be credited by an employer in any year under clause (*b*) of sub-rule (4) of rule 5 of Part A of the Fourth Schedule to the individual account of any one employee shall not exceed the amount of the contributions of the employee in that year

Provided, however, that the above limit shall not apply to bonus contributions made by an employer under an award by an Industrial Tribunal or under an order of a Court or under an agreement with the employees' union(s) to the individual accounts of employees whose salary does not exceed Rs 500 per month

76. Penalty for assigning or creating a charge on beneficial interest.—If an employee assigns or creates a charge upon his beneficial interest in a recognised provident fund, the Income-tax Officer shall, on the fact of the assignment or charge coming to his knowledge, give notice to the employee that if he does not secure the cancellation of the assignment or charge within two months of the date of receipt of the notice, the consideration received for such assignment or charge shall be deemed to be income received by him in the year in which the fact became known to the Income-tax Officer and shall be assessed accordingly

77. Application for recognition.—(1) An application for recognition shall be made by the employers maintaining a provident fund for which recognition is sought and shall be accompanied by the following documents —

(*a*) the trust deed if any in original with one copy thereof, the latter to be retained by the Commissioner, and

(*b*) the rules of the fund

Provided that if the original of the trust deed cannot conveniently be produced, it shall be open to the Commissioner to accept in lieu of the original a copy certified either by a Magistrate or in any manner specified in rule 17 of the Companies (Central Government's) General Rules, 1956, in which case an additional copy shall be furnished for retention by the Commissioner.

(2) The application shall be submitted through the Income-tax Officer of the area in which the accounts of the fund are kept or, if the accounts are kept outside India, through the Income-tax Officer of the area in which the local headquarters of the employer are situate

(3) The application shall contain the following information —

(*a*) Name of employer and address, his business, profession, etc , also his principal place of business.

(*b*) Number of employees subscribing to the fund—

(*i*) in India,

(*ii*) outside India

(*c*) Place where the accounts of the fund are or will be maintained

(*d*) If the fund is already in existence—

(*i*) a copy of the last balance sheet of the fund, where such is maintained,

(*ii*) details of investments of the fund

(4) A verification in the following form shall be annexed to the application —

Form of verification

We/I, the trustee(s) of the abovenamed fund, do declare that what is stated in the above application is true to the best of our/my information and belief, and that the documents sent herewith are the originals or true copies thereof

78. Order of recognition.—An order according recognition to a provident fund shall take effect from the last day of the month in which the application for recognition is received by the income-tax authority concerned, unless, at the request of the employer, the last day of any later month in the same financial year is specified

Provided that if the Commissioner is satisfied that there was sufficient reason for the delay in making such application, he may accord recognition to the fund from a date not earlier than the 1st day of April of the financial year in which the application is made

79. Withdrawal of recognition.—Before withdrawing recognition, the Commissioner shall give an opportunity to the employer and the trustees of the fund to show cause why recognition should not be withdrawn

80. Exemption from tax when recognition withdrawn.—If the Commissioner withdraws recognition from a provident fund, the balance to the credit of each employee at the end of the financial year prior to the date of the withdrawal of recognition shall, subject to the provisions of rule 9 of Part A of the Fourth Schedule, be paid to him free of tax at the time when such employee receives the accumulated balance due to him The remainder of the accumulated balance due to him shall be liable to tax as if the fund had never been recognised

81. Appeal.—An appeal under sub-rule (1) of rule 13 of Part A of the Fourth Schedule shall be in Form No 42 and shall be verified in the manner indicated therein and shall be accompanied by a fee of rupees one hundred

PART XIII

APPROVED SUPERANNUATION FUNDS

82. Definitions.—In this Part—

(*1*) "beneficiary" means a person referred to in clause (*b*) of rule 3 of Part B of the Fourth Schedule for whom provision of annuity is made,

(*2*) "fund" means a superannuation fund or a part of a superannuation fund, and

(*3*) "trust" means the trust under which the superannuation fund is established and "trustee" means a trustee thereof

83. Establishment of fund and trust.—The fund and the trust shall be established in India

84. Conditions regarding trustees.—(1) The trust shall have at least two trustees, provided that a company [as defined in clause (*i*) of sub-section (1) of section 3 of the Companies Act, 1956 (I of 1956)] shall not be appointed as a trustee without the prior approval of the Commissioner

(2) The trustees of the fund shall be resident in India and any trustee who leaves India permanently shall vacate his office

85. Investment of fund moneys.—All moneys contributed to the fund after the 31st day of October, 1974, or received or accruing after that date by way of interest or otherwise to the fund may be deposited in a Post Office Savings Bank Account in India or in a current account with any scheduled bank or utilised in accordance with rule 89 for making payments under a scheme of insurance or for purchase of annuities referred to in that rule, and to the extent such moneys as are not so deposited or utilised shall be invested in the manner specified in sub-rule (2) of rule 67, and for this purpose, the expression "investible moneys" in that sub-rule shall mean the moneys of the fund as are not deposited or utilised as aforesaid

86. Admission of directors to a fund.—Where the employer is a company as defined in clause (*i*) of sub-section (1) of section 3 of the Companies Act, 1956 (I of 1956), a director of the company may be admitted to the benefits of the fund only if he is a whole-time bona fide employee of the company and does not beneficially own shares in the company carrying more than five per cent of the total voting power

87. Ordinary annual contributions.—The ordinary annual contribution by the employer to a fund in respect of any particular employee shall not exceed twenty-five per cent of his salary for each year as reduced by the employer's contribution, if any, to any provident fund (whether recognised or not) in respect of the same employee for that year

88. Initial contributions.—Subject to any condition which the Board may think fit to specify under clause (*iv*) of sub-section (1) of section 36, the amount to be allowed as a deduction on account of an initial contribution which an employer may make in respect of the past services of an employee admitted to the benefits of a fund shall not exceed twenty-five per cent of the employee's salary for each year of his past service with the employer as reduced by the employer's contribution, if any, to any provident fund (whether recognised or not) in respect of that employee for each such year

89. Scheme of insurance or annuity.—For the purpose of providing the annuities for the beneficiaries, the trustees shall—

(*i*) enter into a scheme of insurance with the Life Insurance Corporation established under the Life Insurance Corporation Act, 1956 (XXXI of 1956), or

(*ii*) accumulate the contributions in respect of each beneficiary and purchase an annuity from the said Life Insurance Corporation of India at the time of the retirement or death of each employee or on his becoming incapacitated prior to retirement

90. Commutation of annuity.—Any payment in commutation of annuity shall not exceed—

(*a*) in a case where the employee receives any gratuity, the commuted value of one-fourth of the annuity which he is normally entitled to receive, and

(*b*) in any other case, the commuted value of one-third of such annuity,

such commuted value being determined having regard to the age of the recipient, the state of his health, the rate of interest and officially recognised tables of mortality

91. Beneficiary not to have any interest in insurance and employer not to have any interest in fund's moneys.—(1) No beneficiary shall have any interest in any insurance policy taken out by the trustees under the rules of a fund and he shall be entitled only to an annuity from the fund

(2) No money belonging to the fund shall be receivable by the employer under any circumstances nor shall the employer have any lien or charge on the fund

92. Penalty if employee assigns or charges interest in fund.—If an employee assigns or creates a charge upon his beneficial interest in a fund, the Income-tax Officer shall give notice to the employee that if he does not secure the cancellation of the assignment or charge within two months of the date of receipt of the notice, the consideration received for such assignment or charge shall be deemed to be income received by him in the previous year in which the fact became known to the Income-tax Officer and shall be assessed accordingly

93. Arrangements on winding up, etc., of business.—Where the employer's trade or undertaking is to be wound up or discontinued, the trustees shall, with the prior approval of, and subject to such conditions as may be imposed by, the Commissioner, make satisfactory arrangements for the payment of annuities to the existing employees or, on the death of the employees, to their widows, children or dependents

94. Arrangements for winding up, etc., of fund.—Any arrangements for the winding up of the fund or for its amalgamation with another fund shall be subject to the prior approval of, and subject to such conditions as may be imposed by, the Commissioner

95. Application for approval.—(1) The application for approval of a fund or part of a fund under sub-rule (1) of rule 4 of Part B of the Fourth Schedule shall contain the following information —

(*a*) Name of employer and address, his business, profession, etc , also his principal place of business

(*b*) Classes and number of employees entitled to the benefits of the fund—

(*i*) in India,

(*ii*) outside India

(*c*) Place where the accounts of the fund are or will be maintained

(*d*) If the fund is already in existence, the details of investment of the fund

(2) A verification in the following form shall be annexed to the application —

Form of verification

We/I, the trustee(s) of the abovenamed fund, do declare that what is stated in the above application is true to the best of our/my information and belief, and that the documents sent herewith are the originals or true copies thereof

96. Amendment of rules, etc., of fund.—No alteration in the rules, constitution, objects or conditions of an approved fund shall be made without the prior approval of the Commissioner

97. Appeal.—An appeal under sub-rule (1) of rule 8 of Part B of the Fourth Schedule shall be made in Form No 43 and shall be verified in the manner indicated therein and shall be accompanied by a fee of rupees one hundred

PART XIV

APPROVED GRATUITY FUNDS

98. Definitions.—In this Part—

(*a*) "beneficiary" means a person referred to in clause (*b*) of rule 3 of Part C of the Fourth Schedule for whom provision of gratuity is made,

(*b*) "fund" means a "gratuity fund", and

(*c*) "trust" means the trust under which the fund is established and "trustee" means a trustee thereof

99. Establishment of fund and trust.—The fund and the trust shall be established in India

100. Conditions regarding trustees.—(1) The trust shall have at least two trustees provided that a company [as defined in sub-clause (*i*) of sub-section (1) of section 3 of the Companies Act, 1956 (I of 1956)] shall not be appointed as a trustee without the prior approval of the Commissioner

(2) The trustees of the fund shall be resident in India and any trustee who leaves India permanently shall vacate his office

101. Investment of fund moneys.—All moneys contributed to the fund after the 31st day of October, 1974, or received or accruing after that date by way of interest or otherwise to the fund may be deposited in a Post Office Savings Bank Account in India or in a current account with any scheduled bank or utilised for the purpose of making contributions under Group Gratuity Scheme entered into with the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (XXXI of 1956), and to the extent such moneys as are not so deposited or utilised shall be invested in the manner specified in sub-rule (2) of rule 67, and for this purpose, the expression "investible moneys" in that sub-rule shall mean the moneys of the fund as are not deposited or utilised as aforesaid

101A. Nomination.—(1) An employee may be allowed by the trustees of the gratuity fund to make a nomination conferring on one or more persons the right to receive the amount of gratuity in the event of his death, before that amount becomes payable or, having become payable, has not been paid Such a nomination shall be made in Form No 40A or in a form as near thereto as may be necessary

(2) If an employee nominates more than one person under sub-rule (1), he shall, in his nomination, specify the amount or share payable to each of the nominees in such manner as to cover the whole of the amount of gratuity that may be payable in the event of his death

(3) Where an employee has a family at the time of making a nomination, the nomination shall be in favour of one or more persons belonging to his family Any nomination made by such employee in favour of a person not belonging to his family shall be invalid

(4) If at the time of making a nomination the employee has no family, the nomination may be in favour of any person or persons, but if the employee subsequently acquires a family, such nomination shall forthwith be deemed to be invalid and the employee may be allowed to make a fresh nomination in favour of one or more persons belonging to his family

(5) A nomination made by an employee may, at any time, be modified by him after giving a written notice to the trustees of his intention of doing so in Form No 40B

or in a form as near thereto as may be If the nominee predeceases the employee, the interest of the nominee shall revert to the employee, who may thereupon make a fresh nomination in respect of such interest

(6) A nomination or its modification shall take effect to the extent it is valid on the date on which it is received by the trustees

Explanation —For the purposes of this rule, "family" shall have the same meaning as in rule 67A

102. Admission of directors to a fund.—Where the employer is a company as defined in clause (*i*) of sub-section (1) of section 3 of the Companies Act, 1956 (I of 1956), a director of the company may be admitted to the benefits of the fund only if he is a whole-time bona fide employee of the company and does not beneficially own shares in the company carrying more than five per cent of the total voting power

103. Ordinary annual contributions.—The ordinary annual contribution by the employer to a fund shall be made on a reasonable basis as may be approved by the Commissioner having regard to the length of service of each employee concerned so, however, that such contribution shall not exceed $8\frac{1}{3}$ per cent of the salary of each employee during each year

104. Initial contributions.—The amount to be allowed as a deduction on account of an initial contribution which an employer may make in respect of the past services of an employee admitted to the benefits of a fund shall not exceed $8\frac{1}{3}$ per cent. of the employee's salary for each year of his past service with the employer

105. Penalty if employee assigns or charges interest in fund.—If an employee assigns or creates a charge upon his beneficial interest in a fund, the Income-tax Officer shall give notice to the employee that if he does not secure the cancellation of the assignment or charge within two months of the date of receipt of the notice, the consideration received for such assignment or charge shall be deemed to be income received by him in the previous year in which the fact became known to the Income-tax Officer and shall be assessed accordingly

106. Employer not to have interest in fund moneys.—No money belonging to the fund shall be receivable by the employer under any circumstances nor shall the employer have any lien or charge on the fund.

107. Arrangements for winding up, etc., of business.—Where the employer's trade or undertaking is to be wound up or discontinued, the trustees shall, with the prior approval of, and subject to such conditions as may be imposed by, the Commissioner, make satisfactory arrangements for the payment of gratuity to the existing beneficiaries

108. Arrangements for winding up of the fund.—Any arrangements for the winding up of the fund or for its amalgamation with another fund shall be subject to the prior approval of, and to such conditions as may be imposed by, the Commissioner

109. Application for approval.—(1) The application for approval of a gratuity fund under sub-rule (1) of rule 4 of Part C of the Fourth Schedule shall contain the following information —

(*a*) Name of employer and address, his business, profession, etc , also his principal place of business.

(*b*) Classes and number of employees entitled to admission to the fund—

(*i*) in India,

(ii) outside India

(c) Place where the accounts of the fund are or will be maintained

(d) If the fund is already in existence, the details of investment of the fund

(2) A verification in the following form shall be annexed to the application —

Form of verification

We/I, the trustee(s) of the abovenamed fund, do declare that what is stated in the above application is true to the best of our/my information and belief, and that the documents sent herewith are the originals or true copies thereof

110. Amendment of rules, etc., of fund.—No alteration in the rules, constitution, objects or conditions of an approved fund shall be made without the prior approval of the Commissioner

111. Appeal.—An appeal under sub-rule (1) of rule 8 of Part C of the Fourth Schedule shall be made in Form No 44 and shall be verified in the manner indicated therein and shall be accompanied by a fee of rupees one hundred

PART XV

MISCELLANEOUS

111A. Application for reduction of the amount of minimum distribution by a company.—An application under sub-section (1) of section 107A for reduction of the amount of the minimum distribution required of a company under Chapter XI-D shall be made in Form No 44A

111AA. Conditions for reference to Valuation Officers.—The percentage of the value of the asset and the amount referred to in sub-clause (i) of clause (b) of section 55A shall, respectively, be 15 per cent and Rs 25,000

111AB. Form of report of valuation by registered valuer.—The report of valuation by a registered valuer in respect of any asset shall be furnished in the appropriate Form specified in rule 8D of the Wealth-tax Rules, 1957, and shall be verified in the manner indicated in such Form

111B. Publication and circulation of Board's orders.—Any general or special order of the Board issued under clause (a) of sub-section (2) of section 119, the publication and circulation of which is, in the opinion of the Board, necessary in the public interest, shall be published and circulated in one or more of the following modes, namely —

(i) publication of the order in the Official Gazette;

(ii) despatching copies of the order to Chambers of Commerce and other trade or professional associations which are, for the time being, borne on the mailing list of the Board,

(iii) displaying copies of the order on the notice board of the office of every Commissioner, Inspecting Assistant Commissioner and Income-tax Officer.

112. Search and seizure.—(1) The powers of search and seizure under section 132 shall be exercised in accordance with sub-rules (2) to (14)

(2) (a) The authorisation under sub-section (1) of section 132 (other than an authorisation under the proviso thereto) by the Director of Inspection or the

Commissioner or any such Deputy Director of Inspection or Inspecting Assistant Commissioner as is empowered by the Board in this behalf shall be in Form No 45,

(*b*) the authorisation under the proviso to sub-section (1) of section 132 by a Commissioner shall be in Form No 45A,

(*c*) the authorisation under sub-section (1A) of section 132 by a Commissioner shall be in Form No 45B

(2A) Every authorisation referred to in sub-rule (2) shall be in writing under the signature of the officer issuing the authorisation and shall bear his seal

(3) Any person in charge of or in any building, place, vessel, vehicle or aircraft authorised to be searched shall, on demand by the officer authorised to exercise the powers of search and seizure under section 132 (hereinafter referred to as the authorised officer) and on production of the authority, allow him free ingress thereto and afford all reasonable facilities for a search therein

(4) If ingress into such building or place cannot be so obtained it shall be lawful for the authorised officer executing the authority, with such assistance of police officers or of officers of the Central Government, or of both, as may be required, to enter such building or place and search therein and in order to effect an entrance into such building or place, to break open any outer or inner door or window of any building or place, whether that of the person to be searched or of any other person, if after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance

Provided that, if any such building or place is an apartment in actual occupancy of a woman, who according to custom does not appear in public, the authorised officer shall, before entering such apartment, give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing and may then break open the apartment and enter it

(4A) If ingress into any vessel, vehicle or aircraft authorised to be searched cannot be obtained because such vessel, vehicle or aircraft is moving or for any other reason, it shall be lawful for the authorised officer with such assistance of police officers or of officers of the Central Government, or of both, as may be required, to stop any such vessel or vehicle or, in the case of an aircraft, compel it to stop or land, and search any part of the vessel, vehicle or aircraft, and in order to effect an entrance into such vessel, vehicle or aircraft, to break open any outer or inner door or window of any such vessel, vehicle or aircraft, whether that of the person to be searched or of any other person, if after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance

Provided that if any such vessel, vehicle or aircraft is occupied by a woman, who according to custom does not appear in public, the authorised officer shall, before entering such vessel, vehicle or aircraft, give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing

(4B) The authorised officer may require any person who is the owner, or has the immediate possession, or control, of any box, locker, safe, almirah or any other receptacle situate in such building, place, vessel, vehicle or aircraft, to open the same and allow access to inspect or examine its contents, and, where the keys thereof are not available or where such person fails to comply with any such requirement, may cause any action to be taken including the breaking open of such box, locker, safe, almirah or other receptacle which the authorised officer may deem necessary for carrying out all or any of the purposes specified in the authority issued under sub-rule (2)

(4C) The authorised officer may, where it is not practicable to seize the money, bullion, jewellery or other valuable article or thing or any books of account or document, serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of the authorised officer, who may take such steps as may be necessary for ensuring compliance with this sub-rule

(5) Any person referred to in clause (*ii-a*) of sub-section (1) of section 132 may be searched by the authorised officer with such assistance as he may consider necessary If such person is a woman, the search shall be made by another woman with a strict regard to decency

(6) Before making a search, the authorised officer shall,—

(*a*) where a building or place is to be searched, call upon two or more respectable inhabitants of the locality in which the building or place to be searched is situate, and

(*b*) where a vessel, vehicle or aircraft is to be searched, call upon any two or more respectable persons, to attend and witness the search and may issue an order in writing to them or any of them so to do

(7) The search shall be made in the presence of the witnesses aforesaid and a list of all things seized in the course of such search and of the places in which they were respectively found shall be prepared by the authorised officer and signed by such witnesses, but no person witnessing a search shall be required to attend as a witness of the search in any proceedings under the Indian Income-tax Act, 1922 (XI of 1922), or the Act unless specially summoned

(8) The occupant of the building, place, vessel, vehicle or aircraft searched, including the person in charge of such vessel, vehicle or aircraft, or some person on his behalf, shall be permitted to attend during the search and a copy of the list prepared under sub-rule (7) shall be delivered to such occupant or person A copy thereof shall be forwarded to the Commissioner and, where the authorisation has been issued by any officer other than the Commissioner, also to that officer

(9) Where any person is searched under clause (*ii-a*) of sub-section (1) of section 132, a list of all things taken possession of shall be prepared and a copy thereof shall be delivered to such person A copy thereof shall be forwarded to the Commissioner and, where the authorisation has been issued by any officer other than the Commissioner, also to that officer.

(10) The authorised officer shall place or cause to be placed the bullion, jewellery and other valuable articles and things seized during the search in a package or packages which shall be listed with details of the bullion, jewellery and other valuable articles and things placed therein; every such package shall bear an identification mark and the seal of the authorised officer or any other income-tax authority not below the rank of Income-tax Officer and the occupant of the building, place, vessel, vehicle or aircraft, including the person in charge of such vessel, vehicle or aircraft, searched or any other person in his behalf shall also be permitted to place his seal on them A copy of the list prepared shall be delivered to such occupant or person A copy shall be forwarded to the Commissioner and where the authorisation has been issued by any officer other than the Commissioner, also to that officer

(11) The authorised officer may convey the books of account and other documents, if any, seized by him in the course of the search made by him and the package or packages, if any, referred to in sub-rule (10) to the office of any income-tax authority not below the rank of Income-tax Officer (hereinafter referred to as the Custodian)

Any money seized in the search referred to above may also be deposited with the Custodian

(12) (*i*) The Custodian shall take such steps as he may consider necessary for the safe custody of—

(*a*) books of account and other documents, and

(*b*) the package or packages, conveyed to him

(*ii*) The Custodian may deposit for safe custody all or any of the packages with any branch of the Reserve Bank of India or the State Bank of India or of its subsidiaries or a Government Treasury.

(*iii*) Where any money has been deposited with the Custodian, he may credit the money, or remit the money through the nearest Government Treasury free of charge for being credited, in the Personal Deposit Account of the Commissioner in the Government Treasury at the place where the office of the Commissioner is situate.

(13) (*i*) Whenever any sealed package is required to be opened for any of the purposes of the Act, the authorised officer may, unless he is himself the Custodian, requisition the same from the Custodian and on receipt of the requisition, such package or packages, as the case may be, shall be delivered to him by the Custodian. The authorised officer may break any seal and open such package in the presence of two respectable witnesses after giving a reasonable notice to the person from whose custody the contents were seized to be present.

(*ii*) Such person shall be permitted to be present till all or any of the contents of such package are placed in a fresh package or packages and sealed in the manner specified in sub-rule (1) or delivered to such person or the Custodian, as the case may be.

(14) The Income-tax Officer to whom the books of account or other documents or assets have been handed over under sub-section (9A) of section 132 shall have all the powers conferred on the authorised officer under sub-rules (11) and (13).

112A. Inquiry under section 132.—(1) Where any money, bullion, jewellery or other valuable article or thing (hereinafter referred to as assets) are seized, the Income-tax Officer shall, within fifteen days of the seizure, and in a case where the assets are handed over to him by the authorised officer under sub-section (9A) of section 132, within fifteen days from the date on which such assets are handed over to him, issue to the person in respect of whom inquiry under sub-section (5) of section 132 is to be made requiring him on the date to be specified therein (not being earlier than fifteen days from the date of service of such notice) either to attend at the office of the Income-tax Officer to explain or to produce or cause to be there produced evidence on which such person may rely for explaining the nature of the possession and the source of the acquisition of the assets.

(2) The Income-tax Officer may issue a notice to the person referred to in sub-rule (1) requiring him on a date specified therein to produce or cause to be produced at such time and at such place as the Income-tax Officer may specify such accounts or documents or evidence as the Income-tax Officer may require and may from time to time issue further notices requiring production of such further accounts or documents or other evidence as he may require.

(3) The Income-tax Officer may examine on oath any other person or make such other inquiry as he may deem fit

(4) Before any material gathered in the course of the examination or inquiry under sub-rule (3) is used by the Income-tax Officer against the person referred to in

sub-rule (1) the Income-tax Officer shall give a reasonable notice to that person to show cause why such material should not be used against him

112B. Release of articles under section 132(5).—Where in pursuance of sub-section (5) of section 132 of the Act, the assets or part thereof have to be released, the Income-tax Officer shall forthwith deliver the same to the person from whose custody they were seized in the presence of two respectable witnesses

112C. Release of remaining assets.—Any assets or proceeds thereof which remain after the liabilities referred to in clause (*i*) of sub-section (1) of section 132B are discharged shall be forthwith made over or paid to the person, from whose custody the assets were seized, in the presence of two respectable witnesses

112D. Requisition of books of account, etc.—(1) The authorisation under sub-section (1) of section 132A by the Director of Inspection or the Commissioner shall be in Form No 45C, shall be in writing under the signature of the officer issuing the authorisation and shall bear his seal

(2) The officer authorised to make a requisition under sub-section (1) of section 132A (hereinafter referred to as the requisitioning officer) shall make the requisition in writing to the officer or authority referred to in clause (*a*) or clause (*b*) or, as the case may be, clause (*c*) of the said sub-section (hereinafter referred to as the delivering officer or authority) calling upon the delivering officer or authority to deliver the books of account, other documents or assets specified in the requisition to him The requisition shall be accompanied by a copy of the authorisation in Form No 45C A copy of the requisition, along with a copy of the authorisation in Form No 45C, shall be forwarded to the person referred to in clause (*a*) or clause (*b*) or, as the case may be, clause (*c*) of sub-section (1) of section 132A

(3) The delivering officer or authority shall prepare a list of the books of account or other documents delivered to the requisitioning officer Before effecting delivery of any bullion, jewellery or other valuable article or thing, the delivering officer or authority shall place or cause to be placed such bullion, jewellery, article or thing in a package or packages which shall be listed with details of such bullion, jewellery, article or thing placed therein Every such package shall bear an identification mark and seal of the requisitioning officer or of any other income-tax authority not below the rank of Income-tax Officer on behalf of the requisitioning officer, and also of the delivering officer or authority The person referred to in clause (*a*) or clause (*b*) or, as the case may be, clause (*c*) of sub-section (1) of section 132A or any other person on his behalf shall also be permitted to place his seal on the said package or packages A copy of the list prepared shall be delivered to such person and a copy thereof shall also be forwarded by the delivering officer to the Commissioner and also to the Director of Inspection where the authorisation under sub-rule (1) has been issued by him

(4) The provisions of sub-rules (11) to (14) (both inclusive) of rule 112 and of rule 112A, rule 112B and rule 112C shall, so far as may be, apply as if the books of account, other documents and assets delivered to the requisitioning officer under section 132A had been seized under sub-section (1) of section 132 by the requisitioning officer from the custody of the person referred to in clause (*a*) or clause (*b*) or, as the case may be, clause (*c*) of sub-section (1) of the said section and as if for the words "the authorised officer" occurring in any of the aforesaid sub-rules and rules, the words "the requisitioning officer" were substituted

113. Disclosure of information respecting assessees.—(1) The application to the Commissioner under clause (*b*) of sub-section (1) of section 138 for information relating to an assessee in respect of any assessment made either under the Act or under the Indian Income-tax Act, 1922 (XI of 1922), on or after the 1st day of April, 1960, shall be made in Form No 46.

(2) The information under clause (*b*) of sub-section (1) of section 138 shall be furnished by the Commissioner in Form No 47

(3) Where it is not possible for the Commissioner to furnish the information asked for by the applicant under clause (*b*) of sub-section (1) of section 138 owing to the fact that the relevant assessment has not been completed, he shall inform the applicant in Form No 48.

(4) Where the Commissioner is satisfied that it is not in the public interest to furnish or cause to be furnished the information asked for, he shall intimate the fact to the applicant in Form No 49

114. * * * * *

115. Rate of exchange for conversion into rupees of income expressed in foreign currency.—The rates of exchange for the calculation of the value in rupees of any income shall be as follows —

(*a*) in respect of income accruing or arising or deemed to accrue or arise to the assessee or received or deemed to be received by him or on his behalf before the 6th day of June, 1966—

(*i*) 1 sh 6 d =Re 1/-,

(*ii*) U S $ 1=Rs 4 762,

(*b*) in respect of income accruing or arising or deemed to accrue or arise to the assessee or received or deemed to be received by him or on his behalf on or after the 6th day of June, 1966—

(*1*) where such income accrues or arises or is deemed to accrue or arise to the assessee or is received or deemed to be received by him or on his behalf—

(*i*) before the 19th day of November, 1967, £ 1 Sterling=Rs 21 00,

(*ii*) after the 18th day of November, 1967, £ 1 Sterling=Rs 18 00,

(*2*) U S $ 1 = Rs 7 50

116. Return of interest paid.—(1) A return shall be furnished under section 285 by the person responsible for paying interest, not being interest on securities, in respect of amounts of interest or aggregate interest exceeding Rs 400

(2) The return referred to in sub-rule (1) shall be made in Form No 50

117. Return of dividends paid —(1) A return shall be furnished by the principal officer of a company under section 286 in respect of a dividend or aggregate dividends if the amount thereof exceeds one rupee in the case of a shareholder which is a company and in respect of a dividend or aggregate dividends if the amount thereof exceeds Rs 5,000 in the case of any other shareholder

(2) The return referred to in sub-rule (1) shall be made in Form No 51 and shall be delivered to the Income-tax Officer who assesses the company

117A. Reduction or waiver of interest payable under section 139.—The Income-tax Officer may reduce or waive the interest payable under section 139 in the cases and in the circumstances mentioned below, namely —

(*i*) where the return of income is furnished by a person who has been treated under section 163 as an agent of a non-resident and is assessed in respect of the latter's income,

(ii) where the return of income is furnished by an assessee whose only source of income during the relevant previous year is a share in the income of an unregistered firm which has been assessed on its total income in respect of that previous year under clause (*b*) of section 183,

(iii) where the return of income of a deceased individual is furnished by his legal representative and the legal representative satisfies the Income-tax Officer that he had sufficient cause for not furnishing such return within time,

(iv) where the return of income has been furnished in pursuance of a notice issued under section 148,

(v) any case in which the assessee produces evidence to the satisfaction of the Income-tax Officer that he was prevented by sufficient cause from furnishing the return within time

Provided that the previous approval of the Inspecting Assistant Commissioner has been obtained where the amount of interest reduced or waived, as the case may be, under clause (*iv*) or clause (*v*) exceeds one thousand rupees

118. Levy of interest under section 220(2) where a recovery certificate is not issued.—(1) Subject to the provisions of rule 119 and sub-rule (2) of this rule, the Income-tax Officer shall calculate the interest payable under sub-section (2) of section 220 at the end of each financial year if the amount of tax, penalty or other sum in respect of which such interest is payable has not been paid in full before the end of any such financial year and a notice of demand under section 156 shall be issued accordingly

(2) Subject to the provisions of rule 119, if the amount of tax, penalty or other sum in respect of which such interest is payable is paid up before the end of any financial year, the Income-tax Officer shall calculate the interest payable under sub-section (2) of section 220 up to the date on which the payment of such tax, penalty or other sum is completed and a notice of demand under section 156 shall be issued accordingly

119. Levy of interest under section 220(2) in a case where a recovery certificate is issued.—(1) At the time of issuing a certificate under section 222, the Income-tax Officer shall calculate the interest payable under sub-section (2) of section 220 on the amount of arrears of tax, penalty or other sum up to the date of the issue of the certificate

(2) The amount of interest calculated under sub-rule (1) as reduced by the amount of such interest, if any, paid by the assessee before the issue of the certificate shall be indicated in the certificate issued by the Income-tax Officer

(3) The amount of interest referred to in sub-rule (2) and the further interest similarly calculated for the period commencing immediately after the date of the issue of the certificate, shall be recoverable from the defaulter along with the amount of tax, penalty or other sum mentioned in the certificate

119A. Procedure to be followed in calculating interest.—In calculating the interest payable by the assessee or the interest payable by the Central Government to the assessee under any provision of the Act,—

(a) the period for which such interest is to be calculated shall be rounded off to a whole month or months and for this purpose any fraction of a month shall be ignored, and the period so rounded off shall be deemed to be the period in respect of which the interest is to be calculated,

(*b*) the amount of tax, penalty or other sum in respect of which such interest is to be calculated shall be rounded off to the nearest multiple of one hundred rupees and for this purpose any fraction of one hundred rupees shall be ignored, and the amount so rounded off shall be deemed to be the amount in respect of which the interest is to be calculated.

120. Form for furnishing particulars by contractor.—The particulars required to be furnished under sub-section (1) of section 285A by a contractor shall be in Form No 52

121. Procedure for imposition of fine.—No order imposing a fine under sub-section (2) of section 285A shall be made unless the contractor has been given a reasonable opportunity of being heard

122. Notice in respect of properties held benami—The notice to be given to the Income-tax Officer under clause (*c*) of sub-section (1) of section 281A by a person claiming to be the real owner of any property held *benami* shall be in Form No 53

123. Application under section 281A(2) for obtaining extracts from returns or certified copy of notice.—An application to the Income-tax Officer under sub-section (2) of section 281A for furnishing relevant extracts from any return of income or net wealth or a certified copy of the notice given under clause (*c*) of sub-section (1) of section 281A shall be made in Form No 54

124. Fees for obtaining extracts from returns or certified copy of notice.— Fees to be paid for the issue of extracts from any return of income or net wealth or a certified copy of the notice given under clause (*c*) of sub-section (1) of section 281A shall be two rupees for every such extract or copy

APPENDIX I

PART I

[See rule 5]

Table of rates at which depreciation is admissible

Class of asset	Depreciation allowance as percentage of— (*i*) actual cost in the case of ocean-going ships, (*ii*) written down value in the case of any other asset	Remarks
1	2	3
I BUILDINGS—		
1 First class substantial buildings of selected materials	2.5	Double these rates will be taken for factory buildings excluding offices, godowns, officers' and employees' quarters
2 Second class buildings of less substantial construction	5	
3 Third class buildings of construction inferior to that of second class buildings but not including purely temporary erections	7.5	
4 Purely temporary erections such as wooden structures	100	
5 In respect of any structure or work in or in relation to a building referred to in sub-section (1A) of section 32,—		
(*a*) where such structure is constructed or such work is done by way of renovation or improvement to any such building	The percentage specified against sub-item 1, 2, 3 or 4 as may be appropriate to the class of building in or in relation to which the renovation or improvement is effected,	
(*b*) where the structure is constructed or the work is done by way of extension to any such building	The percentage specified against sub-item 1, 2, 3 or4 as would be appropriate if the structure or work constituted a separate building	

Class of asset	Depreciation allowance as percentage of— (i) actual cost in the case of ocean-going ships, (ii) written down value in the case of any other asset	Remarks
1	2	3
II FURNITURE AND FITTINGS—		
1 General rate	10	
2 Rate for furniture and fittings used in hotels, restaurants and boarding houses, schools, colleges and other educational institutions, libraries, welfare centres, meeting halls, cinema houses, theatres and circuses, and for furniture and fittings let out on hire for use on the occasion of marriages and similar functions	15	
III. MACHINERY AND PLANT (NOT BEING A SHIP)—		
(i) General rate applicable to machinery and plant (not being a ship) for which no special rate has been prescribed under item (ii) hereinbelow	10	
(ii) Special rates		
A (1) Hydraulic works, pipelines and sluices (N E S A) (2) Overhead cables and wires (N E S A) (3) Salt works—reservoirs, condensers, salt pans, delivery channels and piers, if constructed of masonry, concrete, cement, asphalt or similar materials (N E S A)	5	
B (1) Accounting machines (N E S A) (2) Air conditioning machinery including room air conditioners (N E S A) (3) Artificial silk manufacturing machinery and plant except wooden parts (4) Building contractor's machinery (N E S A) (5) Brick and tile manufacture—Wooden shelves and pallets (6) Calculating machines (N E S A) (7) Machinery and plant coming into contact with corrosive chemicals (8) Machine tools— (a) Automatic and semi-automatic, (b) Precision machine tools, e g, grinding machines (9) Mineral oil concerns—field operations (distribution)—Kerbside pumps including underground tanks and fittings (N E S A) (10) Mines and quarries—Surface and underground machinery (other than electrical machinery, boilers and portable underground machinery), head-gear, moving parts and rails (N E S A) (11) Neo-post franking machines (N E S A) (12) Office machinery (N E S A) (13) Refrigeration plant containers etc (other than racks) (N E S A) (14) Road making plant and machinery (15) Ropeway structures—Carriers	15	

Class of asset	Depreciation allowance as percentage of— (i) actual cost in the case of ocean-going ships, (ii) written down value in the case of any other asset	Remarks
1	2	3
(16) Rubber and plastic goods factories—General machinery and plant (17) Salt works—Machinery, plant, locomotives, wagons and rolling stock (18) Sewing and knitting machines employed in the manufacture of hosiery and woollen goods (19) Sewing and stitching machines for canvas or leather (20) Surgical instruments (N E S A) (21) Tea factories—General machinery and plant including rollers and driers (22) Tramways electric and tramways run by internal combustion engines—Permanent way exceeding 1,25,000 car kilometers per kilometer of track per annum (N E S A) (23) Typewriters (N E S A) (24) Wireless apparatus and gear, wireless appliances and accessories (N E S A)	15	
C (1) Cinematograph films—Machinery used in the production and exhibition of cinematograph films (N E S A)— (a) Recording equipment, reproducing equipment, developing machines, printing machines, editing machines, synchronisers and studio lights except bulbs (b) Projecting equipment of film exhibiting concerns (2) Cycles (N E S A) (3) Data processing machines including computers (N E S A) (4) Electrical machinery—Batteries, X-ray and electro-therapeutic apparatus and accessories thereto (N E S A) (5) Glass manufacturing concerns except direct fire glass melting furnaces—Recuperative and regenerative glass melting furnaces (6) Juice boiling pans (karhais) (N E S A) (7) Motor cars, motor cycles, scooters and other mopeds (N E S A) (8) Sugarcane crushers (indigenous kolhus and belans) (N E S A)	20	
D (1) Aeroplanes—Aircraft, aerial photographic apparatus (N E S A) (2) Concrete pipes manufacture—Moulds (N E S A) (3) Drum container manufacture—Dies (N E S A) (4) Earth moving machinery employed in heavy construction works, such as dams, tunnels, canals, etc (N E S A)	30	

Class of asset	Depreciation allowance as percentage of— (*i*) actual cost in the case of ocean-going ships, (*ii*) written down value in the case of any other asset	Remarks
1	2	3
(5) Glass manufacturing concerns except direct fire glass melting furnaces—Moulds (N E S A) (6) Moulds in iron foundries (N E S A) (7) Mineral oil concerns—field operations (above ground)—Portable boilers, drilling tools, wellhead tanks, rigs, etc (N E S A) (8) Mines and quarries—Portable underground machinery and earth moving machinery used in open cast mining (N E S A) (9) Motor buses, motor lorries, motor taxies, motor tractors (N E S A) (10) Patterns, dies and templates (N E S A) (11) Ropeway structures—Ropeways ropes and trestle sheaves and connected parts (N E S A) (12) Shoe and other leather goods factories—Wooden lasts used in the manufacture of shoes	30	
E (1) Aeroplanes—Aero-engines (N E S A) (2) Rubber and plastic goods factories—Moulds (N E S A)	40	
F (1) Artificial silk manufacturing machinery—Wooden parts (2) Cinematograph films—Bulbs of studio lights (3) Flour mills—Rollers (4) Gas cylinders including valves and regulators (5) Glass manufacturing concerns—Direct fire glass melting furnaces (6) Iron and steel industry—Rolling mill rolls (7) Match factories—Wooden match frames (8) Mineral oil concerns— (*a*) Plant used in field operations (above ground)—distribution—returnable packages (*b*) Plant used in field operations (below ground) but not including assets covered by sub-item (*ii*) B(9) above (9) Mines and quarries— (*a*) Tubs, winding ropes, haulage ropes and sand stowing pipes (*b*) Safety lamps (10) Salt works—Salt pans, reservoirs and condensers, etc , made of earthy, sandy or clayey material or any other similar material (11) Sugar works—Rollers	100	
(*iii*) *Extra depreciation allowance for approved hotels* An extra allowance of depreciation of an amount equal to one-half of the normal allowance shall be allowed in the case of machinery and plant installed by an assessee, being an Indian company, in premises used by it as a hotel where such hotel is for the time being approved by the Central Government for the purposes of section 33 of the Act		

Class of asset	Depreciation allowance as percentage of— (i) actual cost in the case of ocean-going ships, (ii) written down value in the case of any other asset	Remarks
1	2	3
Explanation—For the purposes of this sub-item and sub-item (*iv*), "normal allowance" means the amount of depreciation allowance [other than the extra depreciation allowance under this sub-item or the extra shift depreciation allowance under sub-item (*iv*)] which is allowable under rule 5		
(*iv*) *Extra shift depreciation allowance* An extra allowance up to a maximum of an amount equal to one-half of the normal allowance shall be allowed where a concern claims such allowance on account of double shift working and establishes that it has worked double shift An extra allowance up to a maximum of an amount equal to the normal allowance, instead of one-half of the normal allowance, shall be allowed where a concern claims such allowance on account of triple shift working and establishes that it has worked triple shift		
The calculations of the extra allowance for double shift working and for triple shift working shall be made separately in the proportion which the number of days for which the concern worked double shift or triple shift, as the case may be, bears to the normal number of working days during the previous year For this purpose, the normal number of working days during the previous year shall be deemed to be— (*a*) in the case of a seasonal factory or concern, the number of days on which the factory or concern actually worked during the previous year or 180 days, whichever is greater, (*b*) in any other case, the number of days on which the factory or concern actually worked during the previous year or 240 days, whichever is greater		
Illustration		
For example, where a non-seasonal concern worked 270 days during the previous year out of which it worked triple shift on 135 days and double shift on another 90 days, the extra depreciation allowance for triple shift working will be 135/270, i e one-half, of the normal allowance, and that for double shift working 90/270, i e one-third, of one-half of the normal allowance		
The extra shift allowance shall not be allowed in respect of any item of machinery or plant which has been specifically excepted by inscription of the letters "N E S A " (meaning "No Extra Shift Allowance") against it in sub-item (*ii*) above and also in respect of the following items of machinery and plant to which the general rate of depreciation of 10 per cent applies —		

Class of asset	Depreciation allowance as percentage of— (i) actual cost in the case of ocean-going ships, (ii) written down value in the case of any other asset	Remarks
1	2	3
(1) Electrical machinery—Switchgear and instruments, transformers and other stationary plant and wiring and fittings of electric light and fan installations		
(2) Locomotives, rolling stock, tramways and railways used by concerns, excluding railway concerns		
(3) Mineral oil concerns—Refineries—		
(a) Boilers		
(b) Prime movers		
(c) Process plant		
(4) Mineral oil concerns—Field operations—		
(a) Boilers		
(b) Prime movers		
(c) Process plant		
(d) Storage tanks (above ground)		
(e) Pipelines (above ground)		
(f) Jetties and dry docks		
(5) Mines and quarries—		
(a) Boilers and head-gears (excluding moving parts)		
(b) Shafts and inclines		
(c) Tramways on the surface		
(6) Railway sidings		
(7) Ropeway structures—		
(a) Trestle and station steel work		
(b) Driving and tension gearing		
(8) Salt works—		
(a) Barges and floating plant		
(b) Piers, quays and jetties		
(c) Pipelines for conveying brine if constructed of masonry, concrete, cement, asphalt or similar materials		
(9) Tramways electric and tramways run by internal combustion engines—		
(a) Permanent way not exceeding 1,25,000 car kilometers per kilometer of track per annum		
(b) Cars—car trucks, car bodies, electrical equipment and motors		
(c) Tram cars including engines and gears		
(10) Weighing machines		
IV SHIPS—		
(1) Ocean-going ships—		
(i) Fishing vessels with wooden hull	10	To be calculated on the actual cost
(ii) Other ships	5	
(2) Vessels ordinarily operating on inland waters—		
(i) *Speed boats	20	
(ii) Other vessels	10	

*"Speed boat" means a motor boat driven by a high speed internal combustion engine capable of propelling the boat at a speed exceeding 24 kilometers per hour in still water and so designed that when running at a speed it will plane, i e, its bow will rise from the water.

APPENDIX I

PART II

[See rule 5]

Expectation of life in the case of a steamer or motor vessel purchased second-hand

Age at date of purchase		Expectation of life
Over years	Under years	Years
0	1	20
1	2	19
2	3	18
3	4	17
4	5	16
5	6	15
6	7	14
7	8	13
8	9	12
9	10	11
10	11	10
11	12	9
12	13	9
13	14	8
14	15	8
15	16	7
16	17	7
17	18	7
18	19	6
19	20	6
20	21	5
21	22	5
22	23	4
23	24	4
Over 24 years		As determined by the Board on the facts of each case

APPENDIX II

FORM No 1 to FORM No 3A

These Forms of Returns of Income are not printed because they are proposed to be changed while this volume is going to the press.

FORM No 3B

[See rule 6AA]

Audit Report under section *35D(4)/35E(6) of the Income-tax Act, 1961

*I/We have examined the Balance Sheet(s) of M/s . . . . . . as at . and the Profit and Loss Account(s) for the year(s) ended on *that/those date(s) which are in agreement with the books of account maintained at the head office at *and branches at .. . . .

*I/We have obtained all the information and explanations which to the best of *my/our knowledge and belief were necessary for the purposes of the audit In *my/our opinion, proper books of account have been kept by the head office and the branches of the abovenamed assessee visited by *me/us so far as appears from *my/our examination of the books, and proper returns adequate for the purposes of audit have been received from branches not visited by *me/us, subject to the comments given below —

In *my/our opinion and to the best of *my/our information and according to explanations given to *me/us, the said accounts give a true and fair view—

(i) in the case of the Balance Sheet(s), of the state of the abovenamed assessee's affairs as at . . . ., and

(ii) in the case of the Profit and Loss Account(s), of the profit or loss of his accounting year(s) ending on .

The statement of particulars required for the purposes of the deduction under section *35D/35E is annexed and in *my/our opinion and to the best of *my/our information and according to explanations given to *me/us, these are true and correct

Place *Signed*

Date †*Accountant*

1 *Delete whichever is not applicable

2 †This report is to be given by—

(i) a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949 (XXXVIII of 1949), or

(ii) any person who, in relation to any State, is, by virtue of the provisions of sub-section (2) of section 226 of the Companies Act, 1956 (I of 1956), entitled to be appointed to act as an auditor of companies registered in that State

3 Where any of the matters stated in this report is answered in the negative or with a qualification, the report shall state the reasons for the same

ANNEXURE TO FORM NO 3B

SECTION A

Statement of particulars required for the purposes of deduction under section 35D

1 Date of commencement of business

2 Where the deduction is claimed with reference to the expenditure incurred in connection with the extension of the industrial undertaking or the setting up of a new industrial unit, the date on which the extension was completed or the new industrial unit commenced production or operation .

*3 Qualifying amount of expenditure

†(*a*) Expenditure in connection with—

(*i*) preparation of feasibility report Rs

(*ii*) preparation of project report Rs

(*iii*) conducting market survey or any other survey necessary for the business of the assessee Rs

(*iv*) engineering services relating to the business of the assessee Rs

(*b*) Legal charges for drafting any agreement between the assessee and any other person for any purpose relating to the setting up or conduct of the business of the assessee Rs

Total Rs

‡4 Cost of the project, *i e* actual cost of

(*i*) land and buildings (including expenditure on development) Rs

(*ii*) leaseholds Rs

(*iii*) plant and machinery Rs

(*iv*) furniture and fittings Rs

(*v*) railway sidings Rs

Total Rs

5 Deduction claimed under section 35D Rs

Place *Signed*

Date *Accountant*

---

*Where the qualifying expenditure was incurred during more than one year, yearwise details of the expenditure should be given

†Expenditure under this head should be claimed only where the work in connection with the preparation of the feasibility report or project report or conducting market survey or any other survey or engineering services has been carried out by the assessee himself or by a concern which has been approved in this behalf by the Board

‡In a case where the claim relates to preliminary expenses incurred before the commencement of business, the actual cost of the specified assets which are shown in the books of the assessee as on the last day of the previous year in which the business was commenced should be given In a case where the expenses were incurred in connection with the extension of the industrial undertaking or the setting up of a new industrial unit, the actual cost of the specified assets which are shown in the books of account as on the last day of the previous year in which the extension of the industrial undertaking was completed or the new industrial unit commenced production or operation (in so far as such assets have been acquired or developed in connection with the extension of the industrial undertaking or the setting up of the new industrial unit) should be given

SECTION B

Statement of particulars required for purposes of deduction under section 35E

1 Name(s) of mineral(s) or group(s) of associated minerals in respect of which operations relating to prospecting or development were undertaken . ... ..

2 Year of commercial production ....

3 Qualifying amount of expenditure

Year in which expenditure was incurred	Amount of expenditure (Give details)
1	
2	
3	
4	
5	

Place *Signed*

Date *Accountant*

FORM No 4

[See rule 8A(*a*)]

Notice of commencement of planting/replanting tea bushes

To

The Secretary,
Tea Board,
14, Brabourne Road,
Calcutta

Sir,

This is to give notice under rule 8A(*a*) of the Income-tax Rules, 1962, that I/we/the company . . propose(s)
(name of the assessee)

(*a*) to plant tea bushes on land not planted at any time with tea bushes, or on land which had been previously abandoned,

(*b*) to replant tea bushes in replacement of tea bushes that have died or become permanently useless on any land already planted as per details given hereunder —

1 Particulars of planting referred to in (*a*) above

Sl No	Name of the tea estate where planting operations are proposed to be commenced	Whether the tea estate referred to in col 2 is situated in an area declared by the Central Board of Direct Taxes to be a "hilly area" under section 33A(8) of the Income-tax Act, and, if so, specify the area	Extent of land in hectares on which planting operations are proposed to be carried out	Date on which planting operations are proposed to be commenced
1	2	3	4	5

2 Particulars of replanting referred to in (*b*) above

Sl No	Name of the tea estate where replanting operations are proposed to be commenced	Whether the tea estate referred to in col 2 is situated in an area declared by the Central Board of Direct Taxes to be a "hilly area" under section 33A(8) of the Income-tax Act, and, if so, specify the area	Extent of land in hectares on which replanting operations are proposed to be carried out	Date on which replanting operations are proposed to be commenced
1	2	3	4	5

Yours faithfully,

Place

Date

FORM No 5

[See rule 8A(*d*)]

Certificate of planting/replanting tea bushes

TEA BOARD

Certificate No

This is to certify that . has—
(name of the assessee)

(*a*) planted tea bushes on land not planted at any time with tea bushes, or on land which had been previously abandoned,

(*b*) replanted tea bushes in replacement of tea bushes that have died or have become permanently useless, on any land already planted

Necessary particulars are given hereunder —

*1 Particulars of planting referred to in (*a*) above

Sl No	Name of tea estate where planting is done	Whether the tea estate referred to in col 2 is situated in an area declared by the Central Board of Direct Taxes to be a "hilly area" under section 33A(8) of the Income-tax Act, and, if so, specify the area	"Previous year", that is, the accounting year of the assessee in which the land was prepared for planting	Extent of land in hectares on which planting is done	Date on which planting operations were commenced	Whether notice of commencement of planting operations had been given in writing to the Tea Board within the period specified in rule 8A(*a*)
1	2	3	4	5	6	7

*2 Particulars of replanting referred to in (*b*) above.

Sl No	Name of tea estate where replanting is done	Whether the tea estate referred to in col 2 is situated in an area declared by the Central Board of Direct Taxes to be a "hilly area" under section 33A(8) of the Income-tax Act, and, if so, specify the area	"Previous year", that is, the accounting year of the assessee in which the land was prepared for replanting	Extent of land in hectares on which replanting is done	Date on which replanting operations were commenced	Whether notice of commencement of replanting operations had been given in writing to the Tea Board within the period specified in rule 8A(*a*)	Date on which replanting operations were completed
1	2	3	4	5	6	7	8

Place

Date (SEAL)

*Delete if either (*a*) or (*b*) is not applicable

FORM No 5A

[See rule 8A(*d*)]

Statement of particulars for purposes of section 33A relating to (a) planting of tea bushes on land not planted at any time with tea bushes, or on land which had been previously abandoned; (b) replanting of tea bushes in replacement of tea bushes that have died or have become permanently useless, on any land already planted

1. Name of assessee — Assessment year 19 —19

*2 Particulars of planting referred to in (*a*) above.

Serial No	Name of tea estate where planting was done	Whether situated in a "hilly area", if so, specify the area	"Previous year" in which land was prepared for planting	Extent of land (in hectares) *on which planting was done*	"Actual cost of planting"	Development allowance admissible @ 50%	Deduction claimed in respect of 2nd/4th previous year	Development allowance reserve created
1	2	3	4	5	6	7	8	9

*3 Particulars of replanting referred to in (*b*) above

Serial No	Name of tea estate where replanting was done	Whether situated in a "hilly area", if so, specify the area	"Previous year" in which land was prepared for replanting	Extent of land (in hectares) on which replanting was done	"Actual cost of replanting"	Development allowance admissible @ 30%	Deduction claimed in respect of 2nd/4th previous year	Development allowance reserve created
1	2	3	4	5	6	7	8	9

Date

Place

Signature

*Delete whichever is not applicable

FORM No 6

[See rule 13]

Application for extension of the date for furnishing a return of income under section 139 of the Income-tax Act, 1961

To

The Income-tax Officer,

Under section 139(1)/(2)/(3) of the Income-tax Act, 1961, I/we have to file the return of $\frac{\text{my/our income}}{\text{the income of} \qquad \text{in respect of which I/we am/are assessable}}$ for the assessment year commencing on the 1st April, 19 , before 19 . For the reasons given below, it $\frac{\text{is not possible}}{\text{has not been possible}}$ for me/us to file the return before the said date

2 It is, therefore, requested that time for furnishing the return may be extended up to

Dated *19*

Signature

Name (in capital letters)

Address

NOTES—1 Delete the inappropriate words

2 The application should be signed by a person who is entitled to sign a return of income as provided in section 140 of the Income-tax Act, 1961

FORM No 6A

[See rule 14A]

Application under section 143(2)(a) objecting to the assessment made under section 143(1)

G I R No Dated

To

The Income-tax Officer,

Sir,

Re Assessment for assessment year 19 —19 in the case of

(name of the assessee and status)*

The assessment of my total income/loss has been made by you under section 143(1) on (date) and the notice of demand issued in consequence of such assessment has been served on

(date of service of notice)

2 I do hereby object to the said assessment in respect of the undermentioned adjustments made by you to the income/loss declared in the return †

1
2
3

Address Yours faithfully,

Signature

NOTES —*Here state whether individual, Hindu undivided family, firm, company, etc
†Here state the nature and amount of each adjustment which is objected to Add a separate sheet of paper, if necessary

FORM No. 7

[See rule 15]

Notice of demand under section 156 of the Income-tax Act, 1961

To

. .. .

Status
G I R No

This is to give you notice that for the assessment year a sum of Rs , details of which are given on the reverse, has been determined to be payable by you.

2 The amount should be paid to the Treasury Officer / Sub-Treasury Officer / Agent, State Bank of India / Reserve Bank of India at within 35/ days of the service of this notice The previous approval of the Inspecting Assistant Commissioner of Income-tax has been obtained for allowing a period of less than 35 days for the payment of the above sum A chalan is enclosed for the purpose of payment

3 If you do not pay the amount within the period specified above, you will be liable to pay simple interest at twelve per cent per annum from the date commencing after the end of the period aforesaid in accordance with section 220(2).

4 If you do not pay the amount of the tax within the period specified above, penalty (which may be as much as the amount of tax in arrear) may be imposed upon you after giving you a reasonable opportunity of being heard in accordance with section 221

5 If you do not pay the amount within the period specified above, proceedings for the recovery thereof will be taken in accordance with sections 222 to 229, 231 and 232 of the Income-tax Act, 1961

6 The assessment has been completed under section 143(1) of the Income-tax Act, 1961 In case you object to the assessment, you may apply to me in Form No 6A

objecting to the assessment, within one month from the date of service of this notice of demand

7 The assessment has been made under section 144 of the Income-tax Act, 1961, because you failed to

make the return of income under section 139(2) and did not make a return or a revised return under section 139(4) or section 139(5)
comply with a notice issued under section 142(1)
comply with a notice issued under section 143(2)

However, if you were prevented by sufficient cause from making the return under section 139 (2) or did not receive the notice issued under section 142(1) or section 143(2) or did not have a reasonable opportunity to comply, or were prevented by sufficient cause from complying, with the terms of a notice issued under section 142(1) or section 143(2), you may apply to me, within one month from the date of service of this notice, under section 146, to cancel the assessment and proceed to make a fresh assessment

8 If you intend to appeal against the
assessment
fine
penalty
interest payable under section 216,

you may present an appeal under Part A of Chapter XX of the Income-tax Act, 1961, to the Appellate Assistant Commissioner of Income-tax . . within thirty days of the receipt of this notice, in Form No 35, duly stamped and verified as laid down in that form

9 The amount has become due as a result of the order of the Appellate Assistant Commissioner of Income-tax/Inspecting Assistant Commissioner of Income-tax/ Commissioner of Income-tax under section . of the Income-tax Act, 1961 If you intend to appeal against the aforesaid order, you may present an appeal under Part B of Chapter XX of the said Act to the Income-tax Appellate Tribunal within sixty days of the receipt of that order, in Form No 36, duly stamped and verified as laid down in that form

Dated *Income-tax Officer*

Place *Address*

NOTES—(1) Delete inappropriate paragraphs and words
(2) If you wish to pay the amount by cheque, the cheque should be drawn in favour of the Treasury Officer/Sub-Treasury Officer/Agent, State Bank of India/Reserve Bank of India.
(3) If you intend to seek extension of time for payment of the amount or propose to make the payment by instalments, the application for such extension or, as the case may be, permission to pay by instalments, should be made to the Income-tax Officer before the expiry of the period specified in paragraph 2 Any request received after the expiry of the said period will not be entertained in view of the specific provisions of section 220(3)

FORM No. 8

Omitted

FORM No 9

Omitted

FORM No 10

[See rule 17]

Notice to the Income-tax Officer under section 11(2) of the Income-tax Act, 1961

To

The Income-tax Officer,

I, , on behalf of ..
(name of the trust)

hereby bring to your notice that it has been decided by a resolution passed by the trustees on (date) (copy enclosed) that, out of the income of the trust for the previous year(s) relevant to the assessment year 19 —19 and subsequent previous year(s),

an amount of Rs
_________________ per cent of the income of the trust
such sum as is available at the end of the previous year(s)

should be accumulated or set apart till the previous year(s) ending in order to enable the trustees to accumulate sufficient funds for carrying out the following purposes of the trust —

(1)

(2)

etc

2. Before the expiry of six months commencing from the end of each previous year*, the amount so accumulated or set apart has been/will be—

(*i*) invested in any Government security as defined in clause (2) of section 2 of the Public Debt Act, 1944, or in any other security which may be approved by the Central Government in this behalf,

(*ii*) deposited in any account with the Post Office Savings Bank [including deposits made under the Post Office (Time Deposits) Rules, 1970] or a banking company to which the Banking Regulation Act, 1949, applies (including any bank or banking institution referred to in section 51 of that Act) or a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank), or

(*iii*) deposited in an account with a financial corporation which is engaged in providing long-term finance for industrial development in India and which is approved by the Central Government for the purposes of clause (*viii*) of sub-section (1) of section 36

3 Copies of the annual accounts of the trust along with details of investments (including deposits) and utilisation, if any, of the money so accumulated or set apart will be furnished to you before the expiry of six months commencing from the end of each relevant previous year* or before the 30th day of June immediately following such previous year*, whichever is later

4 It is requested that in view of our complying with the conditions laid down in section 11(2) of the Income-tax Act, 1961, the benefit of that section may be given in the assessments of the trust in respect of the incomes accumulated or set apart as mentioned above

Date †*Signature*
Designation
Address

NOTES —(1) †This notice should be signed by a trustee
(2) Delete the inappropriate words
(3) *Where there are different previous years for different sources of income, reference here is to the previous year which expires last

FORM No. 10A

[See rule 17A]

Application for registration of charitable or religious trust or institution under section 12A(a) of the Income-tax Act, 1961

To

The Commissioner of Income-tax,

Sir,

I, , on behalf of . . . . . hereby (name of the trust or institution) apply for the registration of the said trust/institution under section 12A of the Income-tax Act, 1961 The following particulars are furnished herewith·

1 Name of the *trust/institution in full (in block letters) . .
2 Address . . .
3 Name(s) and address(es) of author(s)/founder(s) . .
4 Date of creation of the trust or establishment of the institution
5 Name(s) and address(es) of trustee(s)/manager(s)

I also enclose the following documents

1 (*a*) *Original/Certified copy of the instrument under which the trust/institution was created/established, together with a copy thereof
(*b*) *Original/Certified copy of document evidencing the creation of the trust or the establishment of the institution, together with a copy thereof (The originals, if enclosed, will be returned)
2 Two copies of the accounts of the *trust/institution for the latest *one/two/three years

I undertake to communicate forthwith any alteration in the terms of the trust, or in the rules governing the institution, made at any time hereafter

Date *Signature*
Designation
Address

*Strike out whichever is not applicable

FORM No 10B

[See rule 17B]

Audit Report under section 12A(b) of the Income-tax Act, 1961, in the case of charitable or religious trusts or institutions

*I/We have examined the balance-sheet of

(name of the trust or institution)

as at . and the profit and loss account for the year ended on that date which are in agreement with the books of account maintained by the said trust or institution

*I/We have obtained all the information and explanations which to the best of *my/our knowledge and belief were necessary for the purposes of the audit In *my/our opinion, proper books of account have been kept by the head office and the branches of the abovenamed *trust/institution visited by *me/us so far as appears from *my/our examination of the books, and proper returns adequate for the purposes of audit have been received from branches not visited by *me/us, subject to the comments given below.

In *my/our opinion and to the best of *my/our information, and according to information given to *me/us, the said accounts give a true and fair view—

(i) in the case of the balance-sheet, of the state of affairs of the abovenamed *trust/institution as at . , and

(ii) in the case of the profit and loss account, of the profit or loss of its accounting year ending on

The prescribed particulars are annexed hereto

Signed

†*Accountant*

Place

Date

---

1 *Strike out whichever is not applicable

2 †This report has to be given by—

(i) a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949 (XXXVIII of 1949), or

(ii) any person who, in relation to any State, is, by virtue of the provisions of sub-section (2) of section 226 of the Companies Act, 1956 (I of 1956), entitled to be appointed to act as an auditor of the company registered in that State

3 Where any of the matters stated in this report is answered in the negative, or with a qualification, the report shall state the reasons for the same

ANNEXURE

Statement of particulars

I Application of income for charitable or religious purposes

1 Amount of income applied to charitable or religious purposes in India during the previous year

2 Where the *trust/institution has exercised the option under the *Explanation* to sub-section (1) of section 11, amount of income applied to charitable or religious purposes in India during the three months next following the previous year

3 Amount of income eligible for exemption under section 11(1)(*c*) . ... . .

4 Amount of income accumulated or set apart for specified purposes under section 11(2) .

5. Whether the amount of income mentioned in item 4 above has been invested or deposited in the manner laid down in section 11(2)(*b*) If so, the details thereof

6 Whether, during the previous year, any part of income accumulated or set apart for specified purposes under section 11(2) in any earlier year—

(*a*) has been applied for purposes other than charitable or religious purposes or has ceased to be accumulated or set apart for application thereto, or .

(*b*) has ceased to remain invested in any security referred to in section 11(2)(*b*)(*i*) or deposited in any account referred to in section 11(2)(*b*)(*ii*) or section 11(2)(*b*)(*iii*), or

(*c*) has not been utilised for purposes for which it was accumulated or set apart during the period for which it was to be accumulated or set apart, or in the year immediately following the expiry thereof

If so, details thereof .

II Application or use of income or property for the benefit of persons referred to in section 13(3)

1 Whether any part of the income or property of the *trust/institution was lent, or continues to be lent, in the previous year to any person referred to in section 13(3) (hereinafter referred to in this Annexure as such person) If so, give details of the amount, rate of interest charged and the nature of security, if any

2 Whether any land, building or other property of the *trust/institution was made, or continued to be made, available for the use of any such person during the previous year If so, give details of the property and the amount of rent or compensation charged, if any . .

3 Whether any payment was made to any such person during the previous year by way of salary, allowance or otherwise If so, give details .

4 Whether the services of the *trust/institution were made available to any such person during the previous year If so, give details thereof together with remuneration or compensation received, if any .

5 Whether any share, security, or other property was purchased by or on behalf of the *trust/institution during the previous year from any such person. If so, give details thereof together with the consideration paid

6 Whether any share, security or other property was sold by or on behalf of the *trust/institution during the previous year to any such person If so, give details thereof together with the consideration received .

7 Whether any income or property of the *trust/institution was diverted during the previous year in favour of any such person If so, give details thereof together with the amount of income or value of property so diverted

8 Whether the income or property of the *trust/institution was used or applied during the previous year for the benefit of any such person in any other manner If so, give details

* Strike out whichever is not applicable

III Investments held at any time during the previous year(s) in concerns in which persons referred to in section 13(3) have a substantial interest

Sl No	Name and address of the concern	Where the concern is a company, number and class of shares held	Nominal value of the investment	Income from the investment	Whether the amount in col (4) exceeded 5% of the capital of the concern during the previous year—say, Yes/No
(1)	(2)	(3)	(4)	(5)	(6)
TOTAL					

Place *Signed*

Date *Accountant*

FORM No 10C

[See rule 18B]

Audit Report under section 80HH of the Income-tax Act, 1961

*I/We have examined the balance-sheet of the *industrial undertaking/business of hotel styled†... . .. and belonging to M/s . . . . as at. .. . . and the profit and loss account of the said *industrial undertaking/business of hotel for the year ended on that date which are in agreement with the books of account maintained at the head office at . . and branches at ..

*I/We have obtained all the information and explanations which to the best of *my/our knowledge and belief were necessary for the purposes of the audit. In *my/our opinion, proper books of account have been kept by the head office and the branches of the *industrial undertaking/business of hotel aforesaid visited by *me/us so far as appears from *my/our examination of books, and proper returns adequate for the purposes of audit have been received from branches not visited by *me/us, subject to the comments given below —

In *my/our opinion and to the best of *my/our information and according to explanations given to *me/us, the said accounts give a true and fair view—

(*i*) in the case of the balance-sheet, of the state of affairs of the abovenamed *industrial undertaking/business of hotel as at . . . .; and

(*ii*) in the case of the profit and loss account, of the profit or loss of the *industrial undertaking/business of hotel for the accounting year ending on

Place *Signed*

Date ‡*Accountant*

---

1 *Delete whichever is not applicable
2 †Here give name and address of the industrial undertaking/business of hotel
3 ‡This report is to be given by—
(*i*) a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949 (XXXVIII of 1949), or
(*ii*) any person who, in relation to any State, is, by virtue of the provisions in sub-section (2) of section 226 of the Companies Act, 1956 (I of 1956), entitled to be appointed to act as an auditor of companies registered in that State
4 Where any of the matters stated in this report is answered in the negative or with a qualification, the report shall state the reasons therefor

FORM No 10D

[See rule 18C]

Audit Report under section 80J of the Income-tax Act, 1961

*I/We have examined the balance-sheet of the industrial undertaking styled† , and belonging to M/s . (Permanent Account Number) as at and the profit and loss account of the said industrial undertaking for the year ended on that date which are in agreement with the books of account maintained at the head office at and branches at

*I/We have obtained all the information and explanations which to the best of *my/our knowledge and belief were necessary for the purposes of the audit In *my/our opinion, proper books of account have been kept by the head office and the branches of the industrial undertaking aforesaid visited by *me/us so far as appears from *my/our examination of books, and proper returns adequate for the purposes of audit have been received from branches not visited by *me/us, subject to the comments given below —

In *my/our opinion and to the best of *my/our information and according to explanations given to *me/us, the said accounts give a true and fair view—

(*i*) in the case of the balance-sheet, of the state of affairs of the abovenamed industrial undertaking as at , and

(*ii*) in the case of the profit and loss account, of the profit or loss of the industrial undertaking for the accounting year ending on

Place *Signed*

Date ‡*Accountant*

---

1 *Delete whichever is not applicable
2 †Here give name and address
3 ‡This report is to be given by——
(*i*) a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949 (XXXVIII of 1949), or
(*ii*) any person who, in relation to any State, is, by virtue of the provisions in sub-section (2) of section 226 of the Companies Act, 1956 (I of 1956), entitled to be appointed to act as an auditor of companies registered in that State

NOTE —Where any of the matters stated in this report is answered in the negative or with a qualification, the report shall state the reasons therefor

FORM No 11

[See rules 22(2)(i) and 22(4)(i)]

Application for registration of a firm for the purposes of the Income-tax Act, 1961

To

The Income-tax Officer,

. .

Re Assessment year 19 -19

1. We, on behalf of ,
(name of the firm)
hereby apply for the registration of our firm for the purposes of the Income-tax Act, 1961, for the assessment year 19 -19

2 The original/certified copy of the instrument evidencing the partnership together with a copy/duplicate copy is enclosed The prescribed particulars are given in the Schedule on the reverse

3 We hereby declare that none of the partners of the firm was, at any time during the previous year, *up to the date of this application, in relation to the whole or any part of his share in the income or property of the firm, a *benamidar* of any other partner to whom he is not related as spouse or minor child

4 We do hereby certify that the profits (or loss, if any) of the previous year were/will be / period up to the date of dissolution were/will be divided or credited as shown in the Schedule and that the information given above and in the Schedule is correct

Date	*Signature*	*Address*
	1	
	2	
	3	
	4	

NOTE —*Where the application is made after the end of the previous year, the words "up to the date of this application" *must* be deleted

SCHEDULE

Particulars of the firm as constituted at the date of this application and of the shares of the partners in the income (or loss) of the firm and, where the application is made after the end of the previous year, of the apportionment of the income (or loss) of the firm between the partners for the relevant previous year

Name of partner	Address	Date of admittance to partnership	*Interest on capital or loans (if any)	*Salary, commission or other remuneration from firm	†Share in the balance of profits (or loss) percentage	Remarks
1	2	3	4	5	6	7

NOTES —*If the interest, salary, commission and/or other remuneration is payable (or allowable) only if there are sufficient profits available, this fact should be noted by marking the items

in the appropriate columns with the letter "R" (In other cases the interest, salary, commission and/or other remuneration may exceed the total profits so as to leave a balance of net loss divisible in column 6)

†If any partner is entitled to share in profits but is not liable to bear a similar proportion of any losses this fact should be indicated by putting against his share in column 6 the letter "P"

FORM No 11A

[See rules 22(2)(*ii*), 22(3) and 22(4)(*ii*)]

Application for registration of a firm for the purposes of the Income-tax Act, 1961

To

The Income-tax Officer,

Re Assessment year 19.. -19

1 We, on behalf of .. .
(name of the firm)
hereby apply for the registration of our firm for the purposes of the Income-tax Act, 1961, for the assessment year 19 -19

2 The original / certified copy of the instrument or instruments evidencing the partnership in existence from time to time during the previous year up to the date of this application / during the previous year and up to the date of this application, together with a copy / duplicate copy of each is enclosed The prescribed particulars are given in the Schedule on the reverse

3 We hereby declare that none of the partners of the firm was, at any time during the previous year, *up to the date of this application, in relation to the whole or any part of his share in the income or property of the firm, a *benamidar* of any other partner to whom he is not related as spouse or minor child

4 We do hereby certify that the profits (or loss, if any) of the previous year were/will be / period up to the date of dissolution were/will be divided or credited as shown in the Schedule and that the information given above and in the Schedule is correct

Date	*Signature*	*Address*
	1	
	2	
	3	
	4	

NOTE —*Where the application is made after the end of the previous year, the words "up to the date of this application" *must be* deleted

SCHEDULE

Name of partner	Address	Date of admittance to partnership	*Interest on capital or loans (if any)	*Salary, commission or other remuneration from firm	†Share in the balance of profits (or loss) percentage	Remarks
1	2	3	4	5	6	7

(A) Particulars of the firm as constituted at the date of this application and of the shares of the partners in the income (or loss) of the firm

(B) Particulars of the apportionment of the income (or loss) of the firm for the relevant previous year between the partners who in that previous year were entitled to share in such income (or loss) (Applicable where the application is made after the end of the relevant previous year)

NOTES —*If the interest, salary, commission or other remuneration is payable (or allowable) only if there are sufficient profits available this fact should be noted by marking the items in the appropriate columns with the letter "R" (In other cases the interest, salary, commission or other remuneration may exceed the total profits so as to leave a balance of net loss divisible in column 6)

†If any partner is entitled to share in profits but is not liable to bear a similar proportion of any losses, this fact should be indicated by putting against his share in column 6 the letter "P"

FORM No 12

[See rule 24]

Declaration under section 184(7) of the Income-tax Act, 1961, for continuation of registration

To

The Income-tax Officer,

....

Re *Assessment year 19 -19

We, on behalf of , declare that —

(name of the firm)

(i) our firm was granted registration for the †assessment year 19....-19 , *vide* order dated . 19. , passed by the Income-tax Officer .,

(ii) there has been no change in the constitution of the firm or the shares of the partners since the last day of the previous year relevant to the †assessment year 19 —19 up to the last date of the previous year relevant to the *assessment year 19 —19 ‡[or to the date (19) of dissolution of the firm], and

(iii) none of the partners of the firm was, at any time during the previous year, in relation to the whole or any part of his share in the income or property of the firm, a *benamidar* of any other partner to whom he is not related as spouse or minor child

We further declare that the information given above is correct and complete

Date *Signature* *Address*

1
2
3
4

NOTES —*Here mention the assessment year for which the continuation of the registration already granted is applied for

†Here mention the last assessment year for which registration was granted under section 185(1)

‡These words are applicable only if the firm has been dissolved before the date of this declaration

FORM No 13

[See rule 28(1)]

Application by a person other than a company for a certificate under section 197(1) of the Income-tax Act, 1961, relating to deduction of tax from interest on securities

To

The Income-tax Officer,

.

*I, . , of . . . . . . , do hereby declare that my total income computed in accordance with the provisions of the Income-tax Act, 1961, for the previous year relevant to the assessment year 19 —19 (including the interest on securities particulars of which are given in the Schedule hereto) was less than the minimum liable to income-tax / amounted to Rs ______ and I have no reason to expect that my total income for the previous years relevant to the three assessment years next following will increase substantially

*I, , the trustee/co-trustee of . .., do hereby declare that the securities (particulars of which are given in the Schedule hereto) are property held under trust wholly for charitable or religious purposes and that the interest therefrom qualifies for exemption under sections 11 and 13 of the Income-tax Act, 1961, and I have no reason to expect that such interest will not qualify for such exemption for any of the three assessment years next following.

I, therefore, request that a certificate may be issued to the person responsible for paying the interest on the said securities authorising him not to deduct income-tax / to deduct income-tax at the rate of ______ per cent at the time of payment of such interest

Date

Signature

Address

I hereby declare that I am resident / resident but not ordinarily resident / non-resident in India.

I hereby further declare that what is stated in this application is correct

Date

Signature

Address

SCHEDULE

Description of securities	Numbers of securities	Dates of securities	Amounts of securities
(1)	(2)	(3)	(4)

NOTE —*Delete the inappropriate paragraphs and words

FORM No. 13A

[See rule 28(1A)]

Application by a person other than a company for a certificate under section 197(1) of the Income-tax Act, 1961, relating to deduction of tax from interest other than "Interest on securities"

To

The Income-tax Officer,

. .

*I, .of . , do hereby declare that my total income computed in accordance with the provisions of the Income-tax Act, 1961, for the previous year relevant to the assessment year 19 —19 (including the income by way of interest in respect of sums, particulars of which are given in the Schedule hereto) was less than the minimum liable to income-tax / amounted to Rs and I have no reason to expect that my total income for the previous years relevant to the three assessment years next following will increase substantially

*I, ... , the trustee/co-trustee of , do hereby declare that the sums (particulars of which are given in the Schedule hereto) are property held under trust wholly for charitable or religious purposes and that the interest therefrom qualifies for exemption under sections 11 and 13 of the Income-tax Act, 1961, and I have no reason to expect that such interest will not qualify for such exemption for any of the three assessment years next following

I, therefore, request that a certificate may be issued to the person responsible for paying the interest on the said sums authorising him *not to deduct income-tax / to deduct income-tax at the rate of per cent at the time of credit of such interest to my account or, as the case may be, payment thereof to me

I hereby declare that what is stated in this application is correct

Date *Signature*

Address

SCHEDULE

Sl No.	Name and address of the person to whom the sums are given on interest	Amount of such sums	The date on which such sums were given on interest	Period for which such sums were given on interest	Rate of interest
1	2	3	4	5	6

NOTE —*Delete the inappropriate paragraph and words

FORM No 13B

[See rule 28(1B)]

Application by a person, other than a company, for a certificate under section 197(1)(a) of the Income-tax Act, 1961, relating to deduction of income-tax from income by way of winnings from lottery or crossword puzzle

To

The Income-tax Officer,

Sir,

I, (name), of (address), do hereby declare that my total income (including income by way of winnings from †lottery/crossword puzzle, particulars of which are given in the Schedule hereto) computed in accordance with the provisions of the Income-tax Act, 1961, for the previous year relevant to the assessment year 19 —19 *will be less than the minimum liable to income-tax

2 I, therefore, request that a certificate may be issued to the person responsible for paying the said winnings from †lottery/crossword puzzle authorising him †not to deduct income-tax / to deduct income-tax at the rate of per cent at the time of payment of such winnings.

I hereby declare that what is stated in this application is correct

Signature

Address

Date *Permanent Account Number*

SCHEDULE

1 Name and address of the person responsible for paying the income by way of winnings

2 Amount of the winnings

3. Date on which prize announced

4 Date by which winnings are expected to be received

Date *Signature*

* Will not exceed Rs

† Score out whichever is not applicable

FORM No 13C

[See rule 28(1C)]

Application for a certificate under section 194C(4) of the Income-tax Act, 1961, relating to deduction of income-tax from payments made to contractors and sub-contractors

To

The Income-tax Officer,

Sir,

I (name), of (address), do hereby declare that my total income (including income comprised in payments of the nature referred to in section 194C of the Income-tax Act, 1961) computed in accordance with the provisions of that Act for the previous year relevant to the assessment year 19 — 19 *was less than the minimum liable to income-tax / amounted to Rs and I have no reason to expect that my total income (computed as aforesaid) for the three assessment years next following will increase substantially

2 I, therefore, request that a certificate may be issued to the person(s) responsible for paying any sum in pursuance of the contract, particulars of which are given in the Schedule hereto, authorising him/them *not to deduct income-tax / to deduct income-tax at the rate of per cent at the time of credit of such sum(s) to my account or, as the case may be, payment thereof to me

3 I hereby declare that what is stated in this application is correct

Signature

Date *Address*

Permanent Account Number

SCHEDULE

Sl No	Full name and address of the authority/person with whom the contract was made	Date of the contract	Nature of the contract	Date by which work on the contract would be completed	Sums expected to be credited/paid in pursuance of the contract during the current previous year and each of the three immediately succeeding years
1	2	3	4	5	6

Date *Signature*

*Score out whichever is not applicable

FORM No 13D

[See rule 28(1D)]

Application by a person for a certificate under section 197(1)(a) of the Income-tax Act, 1961, relating to deduction of income-tax from income by way of insurance commission

To

The Income-tax Officer,

Sir,

I, (name), of .. (address), do hereby declare that my total income (including income by way of insurance commission, particulars of which are given in the Schedule hereto) computed in accordance with the provisions of the Income-tax Act, 1961, for the previous year relevant to the assessment year 19 —19 *was less than the minimum liable to income-tax / amounted to Rs and I have no reason to expect that my total income for the previous years relevant to the three assessment years next following will increase substantially

2 I, therefore, request that a certificate may be issued to the person responsible for paying the income by way of insurance commission authorising him *not to / to deduct deduct income-tax / income-tax at the rate of per cent at the time of credit of such income to my account or, as the case may be, payment thereof to me

3 I hereby declare that what is stated in this application is correct.

Signature

Place *Address*

Date *Permanent Account Number*

SCHEDULE

Sl No	Name and address of person responsible for paying insurance commission	Amount of insurance commission
1	2	3

*Score out whichever is not applicable.

FORM No. 14

[See rule 28(2)]

Application for a certificate under the proviso to section 194 of the Income-tax Act, 1961, relating to deduction of income-tax from dividends

To

The Income-tax Officer,

. .

Sir,

*I, ... , of .. . , do hereby declare —

(i) that my total income computed in accordance with the provisions of the Income-tax Act, 1961, during the year ending on the 31st day of March, 19 , (including dividends from shares, the particulars of which are given in the Schedule hereto) was less than the minimum liable to income-tax and that I have no reason to expect that my total income during the three years next following will exceed the minimum amount aforesaid, and

(ii) that the said shares stand in my name and are beneficially owned by me, and the dividends therefrom are not includible in the total income of any other person under sections 60 to 64 of the Income-tax Act, 1961.

*I, .. . , the trustee/co-trustee of , do hereby declare that the shares (particulars of which are given in the Schedule hereto) are property held under trust wholly for charitable or religious purposes and that the dividends thereof qualify for exemption under sections 11 and 13 and I have no reason to expect that such dividends will not qualify for such exemption for any of the three assessment years next following.

I, therefore, request that a certificate may be issued to each of the principal officers responsible for paying the dividends on the said shares authorising him to pay the amount of such dividends without deduction of tax

Date *Signature*

Address

*I hereby declare that I am resident / resident but not ordinarily resident / non-resident in India

I hereby further declare that what is stated in this application is correct

Date *Signature*

Address

SCHEDULE

Sl No	Name and address of the company	No of shares	Class of shares and face value of each share	Total face value of shares	Distinctive Nos of shares
1	2	3	4	5	6

Signature

NOTE —*Delete the inappropriate paragraphs and words

FORM No 14A

[See rule 28(3)]

Application for a certificate under section 197(1)(b) of the Income-tax Act, 1961, relating to deduction of income-tax from dividends paid to a non-resident

To

The Income-tax Officer,

.. .

Sir,

*I, .. , of . . . , do hereby declare —

(i) that my total income computed in accordance with the provisions of the Income-tax Act, 1961, during the year ending on the 31st day of March, 19 , (including dividends from shares, the particulars of which are given in the Schedule hereto) $\frac{\text{was less than the minimum liable to income-tax}}{\text{amounted to Rs}}$ and I have no reason to expect that my total income during the three years next following will exceed the $\frac{\text{said minimum}}{\text{Rs}}$,

(ii) that the said shares stand in my name and are beneficially owned by me, and the dividends therefrom are not includible in the total income of any other person under sections 60 to 64 of the Income-tax Act, 1961.

*I, . , the trustee/co-trustee of . , do hereby declare that the shares (particulars of which are given in the Schedule hereto) are property held under trust wholly for charitable or religious purposes and that the dividends thereof qualify for exemption under sections 11 and 13 and I have no reason to expect that such dividends will not qualify for such exemption for any of the three assessment years next following

I, therefore, request that a certificate may be issued to each of the principal officers responsible for paying the dividends on the said shares authorising him to pay the amount of such dividends without deduction of income-tax or after deduction of income-tax at the rate of .. . . per cent and the surcharges thereon

Date *Signature*

Address

*I hereby declare that I am non-resident in India.

I hereby further declare that what is stated in this application is correct.

Date *Signature*

Address

SCHEDULE

Sl No	Name and address of the company	No of shares	Class of shares and face value of each share	Total face value of shares	Distinctive Nos of shares
1	2	3	4	5	6

Signature

NOTE—*Delete the inappropriate paragraphs and words

FORM No. 15

[See rule 29]

Certificate under the proviso to section 194 and/or section 197(1)(b) of the Income-tax Act, 1961, relating to deduction of tax from dividends

Income-tax Office,

.. ..

Date . ... 19 .

Certificate No.

To

The Principal Officer,

. .. ..
(name of company)

.. .
(address of company)

*I hereby authorise you to pay without deduction of income-tax the dividend, payable by your company on the undermentioned shares registered in the name of .. . .

†2. I hereby authorise you to pay the dividend payable by your company on the undermentioned shares registered in the name of . . . . after deducting income-tax at the rate of .. per cent. and surcharge at the rate of per cent. of the amount of the dividend.

3 This certificate shall remain in force up to ....unless it is cancelled by me under intimation to you, before that date.

4 The certificate shall cease to be operative in respect of any of the shares mentioned herein which are transferred by the present holder to any other person, from the date the company receives notice of such transfer.

DESCRIPTION OF SHARES

Sl No	No of shares	Class and face value of each share	Total face value of shares	Distinctive Nos. of shares

(SEAL) *Income-tax Officer*

NOTES —*Applicable in the case of certificates issued under the proviso to section 194
†Applicable only in respect of certificates issued under section 197(1)(*b*) in the case of a person not being a company and not being resident in India

FORM No 15A

[See rule 29A]

Statement under the proviso to section 194A(1) of the Income-tax Act, 1961, relating to deduction of tax from income by way of interest other than income chargeable under the head "Interest on securities"

I/We* . . . .
(name of the person entitled to receive the interest)
do hereby declare that my/our* estimated total income assessable for the assessment year next following the financial year 19 —19 . will be less than the minimum liable to income-tax

2 I give below the other necessary particulars:

(*a*) Full name and address of the person(s) making the statement ....

(*b*) Father's name ....

(*c*) Occupation of the person(s) making the statement . . ..

(*d*) Name of Income-tax Circle/Ward/District where last assessed to tax (If not assessed to income-tax at any time, state "NOT ASSESSED") .. ..

3 I further declare that to the best of my knowledge and belief the information furnished above is correct, complete and is truly stated.

Place

Date *Signature*

ATTESTATION BY GAZETTED OFFICER

Certified that the above statement has been signed in my presence by Shri/Sarvashri .... who is/are* known to me

Place

Date

Name, designation and signature of the Gazetted Officer

NOTE —*Delete whichever is not applicable

FORM No 15B

[See rule 30A(2)]

Form of declaration to be made by the registered shareholder and by the person claiming credit where the dividend on the share is assessable as the income of such other person

I/We hereby declare that dividend(s), as per details shown in columns 4 to 7 of the Table hereinbelow, on the share(s) specified in column 3 thereof, registered in my/our name(s) / the name of ______________________________

(name of the bank/company, etc)

was collected by me/us . . . . on behalf of

the bank/company, etc

. who is/which is beneficially entitled to receive the

(name and address)

income by way of dividend. Particulars of the tax deducted at source from the dividend(s) mentioned hereinabove, as shown in the certificate of deduction of tax under section 203 issued in my/our name . are given

name of the bank/company, etc

in columns 8 to 10 of the Table hereinbelow.

I further declare that I/we . . has/have not

the bank/company, etc

claimed any credit under section 199, nor has any credit under that section been allowed to me/us . . . , for the tax deducted from

the bank/company, etc

the dividend(s) on these shares.

I/We also undertake that I/we .. ... .shall not claim any

the bank/company, etc

credit under section 199 for the tax deducted at source from the dividend(s) on these shares

Date

Signature of the shareholder

Address

TABLE GIVING DETAILS OF DIVIDEND, SHARES, ETC

Sl No	Name of company paying the dividend	Number, description and face value of shares	Date of declaration of the dividend	Date of receipt of dividend	Period for which dividend declared	Amount of dividend	Tax deducted under section 194 of the Income-tax Act, 1961			Net amount received	Particulars of certificate of deduction of tax under section 203
							I T	S C	Total		
1	2	3	4	5	6	7	8	9	10	11	12

I/We hereby declare that the dividend(s), as per details shown in columns 4 to 7 of the above Table, on the share(s) specified in column 3 thereof, is/are assessable as my/our income / the income of the ______________________
(name of the bank/company, etc)

At the time when the dividend on the abovementioned share(s) was declared/credited/paid, these shares were registered in the name(s) of . . and the dividend thereon was collected by
(name and address)

the said on my/our behalf / on behalf of the bank/company, etc

I/We, therefore, request that for the reasons given hereunder the credit in respect of the tax deducted at source from the dividend mentioned above should be given to me/us / the bank/company, etc

.. ..

. . .

(Reasons to be stated)

Place

Date *Signature of the person claiming credit*

FORM No. 15C

[See rule 29B]

Application by a banking company for a certificate under section 195(3) of the Income-tax Act, 1961, for receipt of interest and other sums without deduction of tax

To

The Income-tax Officer,

Sir,

I, , being the principal officer of , hereby declare

(name of the banking company)

(*a*) that is a banking company which is neither an Indian company nor a company which has made the prescribed arrangements for the declaration and payment of dividends within India and which is operating in India through a branch(es) at ,

(*b*) that the head office of the said company is situated at ,
(name of the place and country)

(*c*) that the said company is entitled to receive interest (other than "Interest on securities") and other sums not being dividends, chargeable under the provisions of the Income-tax Act, 1961, during the financial year 19 — 19 ,

(*d*) that the company fulfils all the conditions laid down in rule 29B of the Income-tax Rules, 1962

I, therefore, request that a certificate may be issued authorising the said company to receive interest other than "Interest on securities" and other sums not being dividends, without deduction of tax under sub-section (1) of section 195 of the Income-tax Act, 1961, during the financial year 19 —19

I hereby declare that what is stated in this application is correct.

Date *Signature*

Address

FORM No 15D

[See rule 29B]

Application by a person other than a banking company for a certificate under section 195(3) of the Income-tax Act, 1961, for receipt of sums other than interest and dividends without deduction of tax

To

The Income-tax Officer,

..

Sir,

I, , being the principal officer of ,/We

(name of the person, firm or company entitled to receive sums other than interest and dividends)
do hereby declare

(*a*) that I/ . am/is a non-resident
(name of the firm, company, etc)
assessee (not being a banking company) carrying on business/profession in India through a branch(es) by name(s) .. . .
having office(s) at .. ,

(b) that my head office/the head office of. .. . is situated
(name of the firm, company, etc)
at . . ,
(name of the place and country)

(c) that I/ ... . am/is entitled to receive income
(name of the firm, company, etc)
(other than dividends and interest) chargeable under the provisions of the Income-tax Act, 1961, during the financial year 19 —19 . ,

(d) that I/ . . fulfil(s) all the conditions
(name of the firm, company, etc)
laid down in rule 29B of the Income-tax Rules, 1962

I, therefore, request that a certificate may be issued authorising me/ .
. . . to receive income other than interest or
(name of the firm, company, etc)
dividends without deduction of tax under sub-section (1) of section 195 of the Income-tax Act, 1961, during the financial year 19 . —19

I hereby declare that what is stated in this application is correct.

Date

Address *Signature*

FORM No. 15E

[See rule 29B]

Certificate under section 195(3) of the Income-tax Act, 1961, authorising receipt of interest and other sums without deduction of tax

Income-tax Office

Certificate No Date

To

Sir,

I hereby authorise you to receive through your branch(es) situated at
. /all your branches situated in India, the following sums without deduction of income-tax under sub-section (1) of section 195 of the Income-tax Act, 1961

*(a) interest, not being "Interest on securities",

*(b) any other sum, not being dividends,

*(c) any sums, not being interest or dividends

This certificate covers only such sums as are receivable by the aforesaid branch(es) on its/their own account and not those which are receivable on behalf of your head office or any other branch outside India or any other person

This certificate shall remain in force for the financial year 19 —19 unless it is cancelled by me under intimation to you before the expiry of the said financial year

(SEAL) *Income-tax Officer*

*Delete the inappropriate words

FORM No. 16

[See rule 31(1)]

Certificate of deduction of tax from income chargeable under the head "Salaries"

Certificate No

Name of employer

Address of employer

Name of employee

Certified that a sum of Rs .. has been deducted under section 192 of the Income-tax Act, 1961, from the income chargeable under the head "Salaries" paid to the abovenamed employee during the month of . as per particulars below —

Amount of income chargeable under the head "Salaries" Rs

Particulars of tax deducted

(*i*) Income-tax Rs

(*ii*) Surcharge on income-tax Rs

(*iii*) Total Rs .

Signature of the person responsible for paying the salary

Date

Designation

FORM No 17

[See rule 31(2)]

Certificate of deduction of tax from the interest on bearer bonds Promissory notes/stock certificates/Subsidiary General Ledger Account Balance

Dividend No of coupon
Draft No
†Number of receipt for interest

Certified that a sum of Rs has been deducted as specified below —

(*i*) Rs being income-tax at the rate of ,

(*ii*) Rs being surcharge thereon,

from the interest coupons for Rs presented for payment by the draft
in the interest receipt
of this date, from Rs being the amount of interest on
bearer bonds
Govt promissory notes/stock certificates/Subsidiary General Ledger Account Balance
for Rs of the per cent loan of
said to be the property of
standing in the name of

Name of the office paying interest

Signature

Dated 19

Designation of the official paying interest

†This number should also appear in the interest cages on the back of Government Promissory Notes

(To be signed by the claimant)

I hereby declare that

bearer bonds
Govt promissory notes/stock certificates/Subsidiary General Ledger Account Balance
on which interest, as above specified, has been received

were my own property
were the property of ______ of which I am the principal officer and were
(name of the company)
in the possession of at the time when tax was deducted

Date *Signature*

NOTES—(1) Delete the inappropriate words

(2) The securities or in the case of a Subsidiary General Ledger Account Balance, a certificate from the Public Debt Office or office of the Reserve Bank of India concerned, to be produced, when required in support of any claim

(3) This certificate should not be returned to the Public Debt Office In case you desire to claim a refund of the whole or any part of the tax deducted as shown above, on the ground that your total annual income is below the taxable limit or is liable to income-tax at a rate which is less than the rate at which tax has been deducted, you should send this certificate to the Income-tax Officer direct with an application in the prescribed form obtainable from that office

FORM No 18

[See rule 31(3)]

(1) Certificate of deduction of tax from debentures or other securities for money of a local authority or a company or a corporation established by a Central, State or Provincial Act

Name of local authority/company/corporation
Address

To (2)

Name and address of payee (3)

I/We hereby certify that the sum of Rs . has been deducted as specified below —

(*i*) Rs being income-tax at the rate of ,

(*ii*) Rs being surcharge thereon,

from Rs being the amount of interest at the rate of per cent per annum due on (4) on debentures Nos of Rs each of the (5) and that it has been or will be, within the prescribed period, paid by me/us to the Central Government at

Date (6) *Superintendent, Public Debt Office, or Principal Officer or Managing Agents*

(To be signed by the claimant)

I hereby declare that the securities on which interest as above specified has been received, (7) were my own property / were the property of .... (name of the company) of which I am the principal officer and were in the possession of.. . at the time when the tax was deducted

Date *Signature*

Designation

NOTES—(1) In the case of bearer debentures or bonds a certificate under section 203 shall only be given if the recipient of the interest declares the name and address of the real owner of the security at the time of receiving the interest
(2) Name and address of the owner of security should be given here In the case of bearer debentures or bonds, these particulars are to be given as declared by the payee concerned
(3) To be completed only in the case of bearer debentures or bonds
(4) The date on which interest is payable
(5) Here enter the name of the local authority, company or corporation
(6) Delete the inappropriate words
(7) The securities to be produced when required in support of any claim

FORM No 19

[See rule 31(4)]

Certificate of deduction of tax from dividends under section 203 of the Income-tax Act, 1961

Name of the company Dividend warrant No.

Date

Address

Name and address of the shareholder

Status . . .
(see foot-note 2)

Warrant for Rs . . . being the amount of dividend payable after deduction of tax on (here give number and description of shares) to the shareholder mentioned above

I/We certify—

(*i*) that dividend/interim dividend at the rate of Rs (in words and figures) per share was declared at the . (here give the number and nature of meeting) meeting held on (date) to consider the accounts of the company in respect of the accounting year/period ending on . (date),

(*ii*) that on per cent. of the dividend, no tax has been deducted as the corresponding amount of dividend has been paid out of profits and gains in respect of which the company is eligible for tax relief under section 84 or, as the case may be, section 80J of the Income-tax Act, 1961, read with rule 20 of the Income-tax Rules, 1962,

(*iii*) that the tax as detailed below has been deducted from the amount of dividend

DETAILS OF TAX DEDUCTION

		Rs
1 The amount of dividend from which tax has been deducted		
2 Amount of tax deducted (see foot-notes 3 and 4)	Rate	Amount
Income-tax		
Surcharge		
Total tax deducted		

(iv) that the tax deducted as above has been paid on . (date) or will be paid within a week commencing from the date of this certificate to the Central Government

I/We further certify—
(see foot-note 5)

(a) that the total profits and gains of the company for the aforesaid year/period amounted to Rs ,

(b) that the profits and gains of the company for the aforesaid year/period assessable to agricultural income-tax by the Government of . [and included in (a) above] amounted to Rs ..;

(c) that the percentage of agricultural profits to total profits [percentage of (b) to (a)] was . ,

(d) that the agricultural income-tax (including super-tax) chargeable at the rates of on agricultural profits [(b) above] has been/will be paid by me/us to the Government of .

Signature of the Principal Officer

For . ..
(name of the company)

(To be signed by the claimant)

I hereby certify that the dividends abovementioned relate to the shares which were my own property / the property of (name of the company) of which I am the principal officer at the time when the dividend was declared/during the period from to /on. .. (date), and were in the possession of

Signature

Date

NOTES—(1) The entire amount of dividends declared in a meeting held to consider the accounts of the company in respect of a previous year the profits of which are assessable in 1962-63, or in a subsequent year will constitute "dividends declared or payable in respect of the previous year relevant to the assessment year 1962-63 or such subsequent year".

(2) In the case of a shareholder, other than a company, whom the principal officer has no reason to believe to be "Resident" in India, the status should be shown as "Not resident" The status of any other shareholder, not being a company, should be shown as "Resident"
In the case of a shareholder which is a company, the status should be shown as "Indian" company if it is incorporated in India, and as a "Foreign" company, if it is incorporated outside India
(3) Income-tax and surcharge are to be deducted in each case at the "rates in force"
(4) Where—
(a) no tax has been deducted in view of the provisions of section 196, or in accordance with an exemption certificate issued by the Income-tax Officer under the proviso to section 194, or
(b) income-tax has been deducted at rates lesser than the rates in force in accordance with a certificate issued by the Income-tax Officer under section 197(1)(b), or
(c) in view of the determination by the Income-tax Officer under section 197(3), no tax has been deducted on the whole or any portion of the dividend,
the amounts in item (iii) of the certificate should be shown at nil or at the appropriate figures and the specific reason therefor should be given with details (for example, number, date and office of issue of certificate or Income-tax Officer's determination, etc), as a foot-note or annexure to the certificate
(5) These certificates shall be furnished where a company pays to a shareholder any dividend, wholly or partly, out of its profits and gains assessed to agricultural income-tax by any State Government In other cases this portion may be omitted

FORM No 19A

[See rule 31(4A)]

Certificate of deduction of tax from interest other than "Interest on securities" under section 203 of the Income-tax Act, 1961

To

(name and address of the payee)

I/We* . certify that
(name and address of the payer)
a sum of Rs . , being income-tax at the rate of . per cent, has been deducted from Rs , . being the amount of interest at the rate of per cent per annum on Rs credited to your account/*paid to you on The amount deducted at source has been paid to the credit of the Central Government on /*will be paid to the Central Government by .

Place

Signature of the person responsible for deducting and paying the tax

Date

NOTE —*Delete whichever is not applicable

FORM No. 19B

[See rule 31(4B)]

Certificate of deduction of tax from winnings from lottery or crossword puzzle under section 203 of the Income-tax Act, 1961

To

(name and address of the payee)

Sir,

*I/We .. hereby certify that a sum of
(name)
Rs , being tax as detailed below, has been deducted from

Rs , being the amount of winnings from *lottery/crossword puzzle paid to you on . The amount of tax deducted at
(date)

source $\frac{\text{*has been}}{\text{will be}}$ paid to the credit of the Central Government *on/by .
(date)

DETAILS OF TAX DEDUCTION

Income-tax at the rate of . per cent Rs
Surcharge at the rate of per cent Rs. .
Total Rs ..

Date

Signature of the person responsible for deducting and paying the tax

Address

*Score out whichever is not applicable

FORM No 19C

[See rule 31(4C)]

Certificate of deduction of tax from payments made to contractors and sub-contractors under section 203 of the Income-tax Act, 1961

To

(name and address of the payee)

Sir,

*I/We hereby certify that a sum of Rs.. . . ,
(name)
being income-tax at the rate of . per cent, has been deducted from Rs being the amount $\frac{\text{*credited to your account}}{\text{paid to you}}$ on . . .
(date)
in pursuance of the contract, particulars of which are given in the Schedule hereto. The amount deducted at source $\frac{\text{*has been}}{\text{will be}}$ paid to the credit of the Central Government *on/by
(date)

Date

Signature of the person responsible for deducting and paying the tax

Address

SCHEDULE

Sl No	Date of the contract	Nature of the contract	Date by which work on the contract would be completed	Full value of the contract
1	2	3	4	5

Date *Signature*

*Score out whichever is not applicable

FORM No 19D

[See rule 31(4D)]

Certificate of deduction of tax from insurance commission under section 203 of the Income-tax Act, 1961

To

(name and address of the payee)

Sir,

*I/We (name) hereby certify that a sum of Rs . being income-tax at the rate of per cent has been deducted from Rs . being the amount of insurance commission *credited to your account / paid to you on (date) The amount of tax deducted at source *has been / will be paid to the credit of the Central Government *on/by (date)

Place

Date

Signature of the person responsible for deducting and paying the tax
Address
Permanent Account Number

---

*Score out whichever is not applicable

FORM No 20

[See rule 31(5)]

Certificate of deduction of tax from any chargeable sums other than salaries, interest on securities and dividends

Name of the person making payment
Address
Nature of payment
To

(name and address of the payee)

I/We hereby certify that a sum of Rs . being tax as detailed below has been deducted from Rs being the amount (here give the nature of payment) paid on

Details of tax deduction —

Rs	being income-tax at the rate of
Rs	being surcharge thereon
Rs	Total

Date *Signature of person making payment*

NOTE —In the case of payers other than the Reserve Bank of India and the Banks scheduled under the Reserve Bank of India Act, the receipt for payment of tax to the credit of the Central Government, *i e*, counterfoil of the income-tax chalan shall be furnished along with the certificate, in the case of the Banks referred to above, a certificate by the Bank specifying the number and date of the chalan with which the tax has been credited to the Central Government and the amount which included the particular sum shall be furnished

FORM No 21

[See rule 32]

Monthly return of income chargeable under the head "Salaries" paid and tax deducted at source therefrom for the month of 19

Name of employer Address

Name of person responsible for paying the salary, etc (if not the employer) Address

Name of the employee	Salaries paid or due during the month		Amount of tax deducted						Date on which tax was deducted	Date on which tax deducted has been paid to the credit of Government	Remarks
			Income-tax		Surcharge on income-tax		Total				
	Pay and allowances	Other income chargeable under the head "Salaries"	During the month	Up to and including the month	During the month	Up to and including the month	During the month	Up to and including the month			
1	2	3	4	5	6	7	8	9	10	11	12

I, , being the person responsible for paying the above salaries, etc , do hereby declare that the above particulars are correct

Date *Signature*
Address

NOTES —1 Salary includes wages, annuities, pensions, gratuities, fees, commissions, perquisites or profits in lieu of or in addition to salary and wages including payments made at or in connection with the termination of employment and advance of salary, etc , paid or due during the month It also includes leave salary or allowance paid outside India, periodical cash allowances like house-rent allowance [exclusive of the amount exempt under section 10(*13A*)], entertainment allowance, value of rent-free accommodation or concession in rent, value of perquisite of free conveyance employer's contribution to a recognised provident fund in excess of 10% of salary and interest credited to the employee's account in the recognised provident fund in excess of 1/3rd of the salary or in excess of the prescribed rate of interest For further details, see sections 15 to 17 of the Income-tax Act, 1961

2 In the case of an employee who has left the service of the employer, the name and address of the next employer should be given, wherever possible, in the remarks column

3 In the case of a new employee, the word "new" should be entered in the remarks column in the first month, and, if possible, the name and address of the former employer should be indicated therein

FORM No. 22

[See rule 33]

Statement of tax deducted at source from contributions repaid to employees in the case of an approved superannuation fund

1. Name of the superannuation fund
2. Name and address of the employee
3 The period for which the employee has contributed to the superannuation fund
4. The amount of contributions repaid—
   (*a*) principal
   (*b*) interest
5 The average rate of deduction of tax during the preceding three years
6 Amount of tax deducted on repayment

We, the trustees of .. ., do hereby declare that the above particulars are correct.

Date *Signature*

FORM No 23

[See rule 34]

Certificate of deduction of tax at source from income chargeable under the head "Salaries" for the month of 19 .

Name of employer Address

Name of person responsible for paying the salary, etc (if not the employer) Address

Certified that an amount of Rs .. .. has been deducted under section 194 of the Income-tax Act, 1961, from income chargeable under the head "Salaries" paid to the employees of . . in respect of the month of . 19 , and that the said amount was paid over to the credit of the Central Government *vide* chalan No dated .. . .

in the Treasury / Sub-Treasury / State Bank of India / Reserve Bank of India at . .

Place *Signature of the person responsible for paying the "Salaries"*

Date *Address*

FORM No 24

[See rule 35]

Annual return of "Salaries" under section 206 of the Income-tax Act, 1961

Name of employer { *Government office* / *Local authority* / *Company* / *Public body* / *Association* / *Private employer* }

Name of person responsible for paying the salary, etc (if not the employer) Address

Serial No	Name of employee	Postal address of residence	Appointment or nature of employment	Total amount of salary, wages, annuities, pension, gratuities, commission, bonus, fees or profits in lieu of or in addition to salary and wages including payments made at or in connection with the termination of employment and advance of salary, etc, paid during the year ending on 31st March, 19	Leave salary or allowance paid outside India	Periodical cash allowances like house-rent allowance, entertainment allowance, etc, paid during the year (give details)	Period for which the salary, wages, etc, in cols 5 and 6 and periodical cash allowances in col 7 was paid
1	2	3	4	5	6	7	8

Salary, bonus and all other sums (taxable under Chapter IV-A) which were due to be paid during the year but were not actually paid (full details showing the amount, due date, period for which the amount was payable, to be given for each item separately)	Value of rent-free accommodation or value of any concession in rent for the accommodation provided by the employer (give basis of computation)							Where any conveyance has been provided by the employer free or at a concessional rate, or where the employee is allowed the use of one or more motor cars owned or hired by the employer, estimated value of perquisite (give details)
	Where accommodation is unfurnished	Where accommodation is furnished						
		Value as if accommodation is unfurnished	Cost of furniture (including television sets, radio sets, refrigerators, other household appliances and air-conditioning plant or equipment)	Perquisite value of furniture (15% of col 12)	Total of cols 11 & 13	Rent, if any, paid by the employee	Value of perquisite (cols 14-15)	
9	10	11	12	13	14	15	16	17

Remuneration paid by employer for domestic and personal services provided to the employee (give details)	Value of free or concessional passages on home leave, and other travelling provided by the employer (give details)	Estimated value of any other benefit or amenity provided by the employer free of cost or at concessional rate, not included in the preceding columns (give details)	Employer's contribution to recognised provident fund in excess of 10% of the employee's salary	Interest credited to the assessee's account in recognised provident fund in excess of 1/3 of the salary or in excess of the rate fixed by the Central Government	Total of cols 6, 7, 9, 10, 16 to 22	Amount of entertainment allowance (in col 7) which is deductible u/s 16, amount of house-rent allowance (in col 7) which is exempt u/s 10(*13A*), and amount included in col 19 which is exempt u/s 10(*5*)-and (*6*)
18	19	20	21	22	23	24

Net amount taxable under Chapter IV-A for the year (cols 23—24)	Amount paid by the employee during the year in respect of provident fund contributions and life insurance premiums (give details)	Amount deductible under section 80C(1)	Net amount of salary income on which tax is deductible (cols 25—27)	Total amount of tax deducted during the year on the amount in col 28			Remarks
				Income-tax	Surcharge	Total of cols 29 and 30	
25	26	27	28	29	30	31	32

I certify that—

(i) the above statement contains a complete list of the total amount chargeable under the head "Salaries" paid by . . . (a) to all persons who were receiving or to whom was due income on the 31st day of March, 19 , at the rate of Rs . per annum (being Rs 600 less than the taxable minimum prescribed by the Finance Act for the year) or who have received or to whom was due during the year ended on that day not less than the aforesaid sum in respect of salary, wages, annuity, gratuity, fees, commission, perquisites or profits in lieu of or in addition to salary or wages, advances of salary, payments at or in connection with retirement or any other sums chargeable to income-tax under the head "Salaries", and (b) to all persons from whose salaries any tax was deducted during the year ended on the 31st day of March, 19 ;

(ii) all the particulars furnished above are correct, and

(iii) the amount of tax shown in column 31 has been paid over to the credit of the Central Government.

Date

Signature of person by whom the return is delivered

Designation

NOTES —(1) The amount withdrawn from the provident fund account for the payment of life insurance premium should not be included in this column and should be shown separately against the name of each employee in the Remarks column No 32.

(2) Where an employer deducts from the emoluments paid to an employee or pays on his behalf any contributions of that employee to any approved superannuation fund, all such deductions or payments shall be included in the above statement

FORM No. 25

[See rule 37(1)]

Statement of deduction of tax from interest on securities where deduction is not made by or on behalf of Government

1 Description of securities

2 Numbers of securities

3. Dates of securities

4 Amounts of securities on which interest is paid

5 Period for which interest is paid

6 Amount of interest and tax deducted at source

Amount of interest	Tax deducted		
	Income-tax	Surcharge	Total
(a) *From interest payable to companies —* Name and address of the company 1 2 3 4 etc			
TOTAL—(A)			
(b) *From interest payable to persons other than companies —* Name and address of the recipient 1 2 3 4 etc			
TOTAL—(B)			
(c) GRAND TOTAL—(A)+(B)			

7 Date on which tax was deducted

8 Date on which tax deducted was paid to the credit of the Central Government (here give also the numbers and dates of the chalans through which tax was paid)

I, , certify that the above statement is correct and complete

Date

Signature of the person making the deduction

FORM No. 26

[See rule 37(2)]

Statement of deduction of tax under section 194 of the Income-tax Act, 1961, from dividends

1 Name and address of the company

2 Date of declaration, distribution or payment of dividends

3 Period in respect of which dividend has been declared

4 Amount of dividend (before deduction of tax) as per the following details:—

Nature of share capital	Amount of paid up capital	Rate of dividend	Amount of dividend	Amount payable to	
				companies	persons other than companies
Ordinary Preference (*a*) Tax-free (*b*) Taxable					
TOTAL					

5 Deduct amount on which no deduction was made —

(*i*) Amount of dividend as determined by the Income-tax Officer under section 197(3) to be eligible for the deduction specified in section 80K

(*ii*) Amount covered by certificates issued under the proviso to section 194

(*iii*) Amount on which no deduction was to be made in view of the provisions of section 196

TOTAL

6 Amount on which tax was deducted under section 194 (4 – 5)

7. Amount on which income-tax was deducted at rates lesser than the rates in force according to certificates issued under section 197(1)(*b*)

8 Amount of tax deducted

Income-tax . . . ..

Surcharge .. . . .

TOTAL AMOUNT OF DEDUCTION

9. Date on which tax deducted was paid to the credit of the Central Government (Here give also the numbers and dates of chalans through which payment was made)

I, . . , hereby certify that the above particulars are correct and complete.

Date *Signature*

Designation

FORM No. 26A

[See rule 37(2A)]

Statement of deduction of tax under section 194A of the Income-tax Act, 1961, from interest other than "Interest on securities"

1. Name and address of the person responsible for paying any income by way of interest other than income chargeable under the head "Interest on securities" . .. .

2 Period during which interest is credited/paid . . ..

3 Details of interest credited/paid during the period mentioned against item 2 and of tax deducted at source

	Amount of interest credited/paid	Date(s) on which tax was deducted at source and the amount of such tax	Date on which tax deducted was paid to the credit of the Central Government (Here give also the numbers and date of the chalans through which tax was paid)
(a) *From interest payable to companies* —			
Name and address of the company			
1			
2			
3			
4 etc			
TOTAL—(A)			
(b) *From interest payable to persons other than companies* —			
Name and address of the recipient			
1			
2			
3			
4 etc			
TOTAL—(B)			
(c) GRAND TOTAL—(A)+(B)			

I, , certify that the above statement is correct and complete

Place

Date

Signature of the person making the deduction

FORM No. 26B

[See rule 37(2B)]

Statement of deduction of tax under section 194B of the Income-tax Act, 1961, from winnings from lottery or crossword puzzle

Name and address of the person responsible for paying income by way of winnings from *lottery/crossword puzzle .

Sl No	Name and address of the person to whom winnings from *lottery/ crossword puzzle are to be paid	Gross amount of the winnings	Amount paid	Date of payment	Date on which tax was deducted at source	Amount of tax deducted at source	Date on which the tax deducted at source was paid to the credit of the Central Government
1	2	3	4	5	6	7	8

I certify that the above statement is correct and complete

Place *Signature of the person responsible*
Date *for deducting and paying the tax*

*Score out whichever is not applicable

FORM No 26C

[See rule 37(2C)]

Statement of deduction of tax under section 194C of the Income-tax Act, 1961, from payments made to contractors or sub-contractors

Name and address of the person responsible for making the payment . . . ..

Sl No	Name and address of the *contractor/ sub-contractor to whom payment is made	Gross value of the contract	Amount credited or paid in pursuance of the contract	Date of credit or payment	Date on which tax was deducted at source	Amount of tax deducted at source	Date on which the tax deducted at source was paid to the credit of the Central Government
1	2	3	4	5	6	7	8

I certify that the above statement is correct and complete

Place *Signature of the person responsible*
Date *for deducting and paying the tax*

*Score out whichever is not applicable

FORM No 26D

[See rule 37(2D)(*a*)]

Certificate of deduction of tax at source from income by way of insurance commission for the quarter ending on .

Name of the person responsible for paying any income by way of insurance commission . . .

Address . . . . .

Permanent Account Number

Certified that an amount of Rs has been deducted under section 194D of the Income-tax Act, 1961, from insurance commission credited to the account of payee(s)/paid during the quarter ending on . . and that the said amount was paid over to the credit of the Central Government *vide* chalan No dated . in the Treasury/Sub-Treasury/State Bank of India/Reserve Bank of India, at .

Place *Signature of the person responsible*
Date *for deducting and paying the tax*

FORM No. 26E

[See rule 37(2D)(*b*)]

Statement of deduction of tax under section 194D of the Income-tax Act, 1961, from insurance commission

1 Name, address and Permanent Account Number of the person responsible for paying any income by way of insurance commission . . . .

2 Financial year during which insurance commission is credited/paid . .

3 Details of insurance commission credited/paid during the financial year mentioned against item 2 and of tax deducted at source . . . .

Sl No	Name and address of recipient	Amount of insurance commission credited/ paid	Amount of tax deducted	Remarks
1	2	3	4	5
	TOTAL			

I certify that—

(*i*) all the particulars furnished above are correct, and

(*ii*) the amount of tax shown in column 4 has been paid over to the credit of the Central Government.

Place *Signature of the person responsible*
Date *for deducting and paying the tax*

FORM No 26F

[See rule 37(2D)(*c*)]

Statement of insurance commission credited/paid during the financial year 19 —19 without deduction of tax

Name, address and Permanent Account Number of the person responsible for paying any income by way of insurance commission .

Sl No	Name and address of the recipient	Amount of insurance commission credited/ paid	Date(s) of credit or payment	If payee has furnished a certificate granted by the I T O under section 197(1)(*a*) of the Income-tax Act, give name and designation of the I T O issuing the certificate
1	2	3	4	5

I certify that—

(*i*) the above statement contains a complete list of every person in whose account insurance commission was credited or to whom such insurance commission was paid during the financial year 19 —19 without deduction of tax,

(*ii*) all the particulars furnished above are correct

Place

Date

Signature of the person responsible for paying insurance commission

FORM No 27

[See rule 37(3)]

Statement of deduction of tax from interest, dividends or any other sum payable to (i) persons, not being companies, who are non-resident or resident but not ordinarily resident, and (ii) companies which are neither Indian companies nor companies which have made the prescribed arrangements for the declaration and payment of dividends within India

Serial No	Name and address of the recipient	Date of payment and in the case of dividend the date of declaration of dividend by the company	Nature of payment	Amount payable before deduction of tax	Amount of tax deducted				
					Income-tax		Surcharge		Total amount deducted
					Rate per cent	Amount deducted Rs	Rate per cent	Amount deducted Rs	(cols 7+9) Rs
1	2	3	4	5	6	7	8	9	10
A *Recipients who are companies*									
1.									
2									
3 etc									
TOTAL									
B *Recipients who are not companies*									
1									
2									
3 etc									
TOTAL									
C GRAND TOTAL (A+B)									

Date on which the tax deducted was paid to the credit of the Central Government . (Here give also the numbers and dates of the chalans through which tax was paid)

I, , certify that the above particulars are correct and complete

Date

Signature of the person making the deduction

FORM No 27A

[See rule 37A]

Annual return under section 206A of the Income-tax Act, 1961, of interest other than "Interest on securities" credited/paid during the financial year 19 —19 without deduction of tax

Name and address of the person responsible for paying the income

Sl No	Name and address of the person to whom the interest was credited/paid without deduction during the financial year on his furnishing an affidavit or statement under the proviso to section 194A(1)	Amount of interest credited to the account of, or paid to, the person mentioned in column 2 during the financial year	Date(s) of credit or payment
1	2	3	4
1			
2			
3			

I certify that—

(i) the above statement contains a complete list of every person to whose account interest other than interest on securities was credited or to whom such interest was paid during the financial year 19 —19 without deduction of tax on his furnishing an affidavit or statement under the proviso to section 194A(1),

(ii) all the particulars furnished above are correct and complete

Place
Date

Signature of the person by whom the return is delivered

FORM No 28

[See rule 38]

Notice of demand under section 156 of the Income-tax Act, 1961, for payment of advance tax under section 210 of the Act

To

This is to give you notice under section 210 of the Income-tax Act, 1961, that the sum of Rs as specified in the enclosed order has been determined to be payable by you during the financial year 19 —19

*2 Whereas after the issue of the previous notice of demand served on you on $\frac{\text{your assessment}}{\text{an assessment of the registered firm of which you are a partner}}$

for a previous year later than that referred to in the order under section 210(1), dated 19 , has been completed, /you have paid tax under section 140A for an assessment year later than that referred to in the order under section 210(1), the sum payable by you as advance tax has been redetermined to be Rs . as specified in the enclosed order

3 The amount is payable in equal instalment(s) on or before the 15th June, 15th September, 15th December, 19 , 15th March, 19 .,*

respectively, to *Treasury Officer / Sub-Treasury Officer / Agent, State Bank of India / Reserve Bank of India at when, if the amount is paid, you will be granted a receipt . .. Chalan(s) *is/are enclosed for the purpose in which you should enter the amount of each instalment at the time of payment If this notice of demand is served on you after any of the dates on which the instalments specified herein are payable, the whole tax is payable in equal instalments on the dates which fall after the service of the notice or in one instalment on the 15th March, 19 , if the notice is served after the 15th day of December, 19

4 If at any time before the last instalment as aforesaid is due you estimate that your income subject to advance tax for the previous year relevant to the assessment year commencing on the 1st day of April, 19. , is less than the income on which you have been asked to pay advance tax as above and accordingly you wish to pay an amount less than the amount which you have been so required to pay, you may send to the Income-tax Officer (*i*) an estimate of the total income exclusive of capital gains for that previous year, and (*ii*) an estimate of the advance tax so payable on such income calculated in the manner laid down in section 209 and in that event you should pay such amount (less any instalments already paid in accordance with paragraph 3 of this notice) as accords with your estimate in equal instalments on such of the dates specified above as have not expired or in one sum if the last of such dates is the only one which has not yet expired. For this purpose you should enter in the appropriate chalans the amount payable according to your estimate You may revise your estimate at any time before the last instalment is due and may adjust any excess or deficiency in respect of any instalment already paid in a subsequent instalment or instalments.

5 If at any time before the last instalment as aforesaid is due you estimate that by reason of your current income (*i e.* income for the previous year relevant to the assessment year commencing on the 1st day of April, 19 .) being likely to be greater than the income on which advance tax payable by you has been computed, or for any other reason, the amount of advance tax computed on your current income exceeds the amount of advance tax demanded from you by more than 33-1/3 per cent of the latter amount, you should send to the Income-tax Officer (*i*) an estimate of the total income exclusive of capital gains for the previous year, and (*ii*) an estimate of the advance tax payable on such income calculated in the manner laid down in section 209, and in that event you should pay such amount (less any instalments already paid in accordance with paragraph 3 of this notice) as accords with your estimate in equal instalments on such of the dates specified in paragraph 3 as have not expired or in one sum if the last of such dates is the only one which has not yet expired. For this purpose, you should enter in the appropriate chalans the amount payable according to your estimate You may revise your estimate at any time before the last instalment is due and may adjust any excess or deficiency in respect of any instalment already paid in a subsequent instalment or instalments

6 If your income of the previous year relevant to the assessment for the year commencing on the 1st day of April, 19 , includes any income of the nature of commission which is receivable periodically and is not received or adjusted by the payer in your account before any of the instalments of tax becomes due, you may defer the payment of advance tax on that part of your income to the date when such income is normally receivable or adjustable, and if you do so you should inform the Income-tax Officer of the date to which the payment is so deferred If, however, you do not pay the advance tax so deferred within 15 days of the receipt or adjustment in your account of such income, the advance tax shall be payable with simple interest thereon at twelve per cent per annum from the date of such receipt or adjustment to the date of payment of the advance tax

7 If not having made an estimate of the advance tax payable by you under section 212(1) or (2) you do not pay any instalment of tax on or before the date on which as specified in paragraph 3 of this notice it becomes due, you will be treated as in default in respect of such instalment and will be liable under section 221 to a penalty which may be as great as the amount of the instalment due If, however, you have under section 213 deferred the payment of a part of the advance tax and have informed the Income-tax Officer accordingly you will not be treated as in default in respect of such tax until the date of deferment

8. If, under section 212(1) or (2) or (3A) you send to the Income-tax Officer an estimate of the advance tax payable by you, but do not pay any instalment of tax in accordance therewith on or before the appropriate date, you will be treated as in default in respect of such instalment and will be liable under section 221 to a penalty which may be as great as the amount of the instalment

Date *Income-tax Officer*

Place *Address*

NOTES —(1) If you wish to pay the amount by cheque, the cheque should be drawn in favour of the Treasury Officer/Sub-Treasury Officer/Agent, State Bank of India/Reserve Bank of India

(2) *Delete inappropriate paragraphs or words

(3) The due dates for payment of advance tax during the financial year are—

(*a*) in a case where 75 per cent or more of the "income subject to advance tax" is derived from any source(s) for which the previous year ends on or before December 31	June 15, September 15 and December 15 [March 15 in a case covered by a notification issued by the Board under the proviso to section 211(1)],
(*b*) in any other case	September 15, December 15 and March 15

ENCLOSURE TO FORM NO 28

Order under section 210 of the Income-tax Act, 1961

Name of assessee District or Area

Status* Permanent Account Number

Address

Rs

Total income on the basis of which tax under section 140A has been paid / regular/provisional assessment has been made being that for the year 19 —19 as reduced by the amount of capital gains and income referred to in sub-clause (*ix*) of clause (*24*) of section 2 of the Income-tax Act, 1961, included therein, if any

Less share of income, if any, from a registered firm if the assessment of the firm has been completed for a year later than that referred to above

Add share of income, if any, from such registered firm according to the latest completed assessment of the firm

INCOME SUBJECT TO ADVANCE TAX

Net agricultural income, if any, to be taken into account for purposes of computing advance tax

Income-tax Rs

Gross income-tax chargeable on "income subject to advance tax"

Sums included in "income subject to advance tax" in respect of which income-tax is not payable or on which a rebate of income-tax is admissible—

(*i*) Share of income from an association of persons or body of individuals or an unregistered firm on the profits of which tax has already been paid

(*ii*) Interest on income-tax free securities

(*iii*) Other items

Total amount on which tax is not payable and the proportionate tax on such an amount

Deduct tax which is deductible under sections 192 to 195 on any income (as computed before allowing any deductions admissible under the Act) and which has been taken into account in computing the "income subject to advance tax"

Net amount of income-tax

Less amount on account of estimated double income-tax relief, if any

Balance payable

Less tax already paid in the financial year under section 210 in compliance with the previous notice of demand served on 19

Net amount of tax payable

TOTAL SUM PAYABLE (IN FIGURES AS WELL AS IN WORDS)

Rs .(Rupees)

Date *Income-tax Officer*

Address

NOTE —*In the case of a Hindu undivided family, please state whether the Hindu undivided family has at least one member whose total income of the relevant previous year exceeds the maximum amount not chargeable to income-tax in his case

FORM No 29

[See rule 39]

Estimate of the advance tax payable under section 212(1) or (2) or (3) or (3A) of the Income-tax Act, 1961, for the financial year ending on the 31st March, 19

Name of the assessee

Status (Please state whether individual, Hindu undivided family, local authority or an association of persons, etc)

Address

Whether resident / resident but not ordinarily resident / non-resident

In the case of a firm, whether the firm has been registered in the last completed assessment/ whether the firm has submitted an application or declaration for registration under section 184(1) or section 184(7), as the case may be (Date of application or declaration should be given)

*In the case of a Hindu undivided family, whether the Hindu undivided family has at least one member whose total income of the previous year is likely to exceed the maximum amount not chargeable to income-tax in his case

The tax payable by the assessee named above for the "previous year" ending on relevant to the assessment year 19 —19 is estimated as follows —

1 Estimated "income subject to advance tax"

(1) Income from "Salaries" Rs

(2) Interest on securities Rs

(3) Income from house property Rs

(4) Profits and gains of business or profession

(*a*) Proprietary business or profession
Name Address

(*i*) Rs

(*ii*) Rs

(*b*) Share from firm(s)

Name of the firm	Address	Whether firm has been registered in the last completed assessment	Share of income

(c) Income from an association of persons or body of individuals Rs
TOTAL [(a)+(b)+(c)] Rs

(5) Income from other sources
(i) Dividends Rs
(ii) Interest Rs
(iii) Other incomes Rs
TOTAL Rs

Aggregate of sub-items (1) to (5) Rs.

Less (i) carried forward losses, etc, eligible for set off Rs
(ii) deductions admissible under Chapter VI-A Rs
Rs

Income subject to advance tax Rs

Income-tax Rs.

2 †Estimated net agricultural income

3 Gross income-tax chargeable on income subject to advance tax

4 Sums included in income subject to advance tax in respect of which no tax is payable or on which a rebate of tax is admissible

(i) Share of income from an unregistered firm on which the tax will be paid by the firm
(ii) Share from an association of persons or body of individuals on which tax will be paid by the association or body
(iii) Interest on income-tax free securities
(iv) Other items

Total amount on which tax is not payable and the proportionate tax on such amount

5 Excess of 3 over 4

6 *Deduct*
Amount of tax deductible under sections 192 to 195 on any income (as computed before allowing any deductions admissible under the Act) and which has been taken into account in computing the income subject to advance tax

7 Net amount of income-tax

8. *Less* Amount on account of estimated double income-tax relief, if any

9. Net amount payable

10 *Less*
(i) tax already paid in the financial year under section 212
(ii) tax included in item 8 of which the payment is deferred under section 213 to 19
(I certify that the part of the income on which payment of tax is deferred is receivable or adjustable normally on 19)

11 Balance payable

Date *Signature of the person making the estimate*

Place *Status*

To

The Income-tax Officer,

. . . .

NOTES—(1) The estimate of tax should be signed by a person who is authorised to sign a return of income as provided in section 140 of the Income-tax Act, 1961.

(2) In the case of a registered firm, the firm has to submit an estimate of the advance tax payable, if any, by it in accordance with Part III of the First Schedule to the annual Finance Act The individual partners have also to submit an estimate of the advance tax payable by each including therein the share of income from the registered firm

(3) *If the reply to this question is in the negative, please attach declaration(s) to this effect from all members of the Hindu undivided family

(4) †Item 2 to be filled in only by individuals, Hindu undivided families, unregistered firms, other associations of persons or bodies of individuals, whether incorporated or not, referred to in sub-clause (*v*) of clause (*31*) of section 2 of the Income-tax Act, 1961, and artificial juridical persons referred to in sub-clause (*vii*) of the said clause (*31*)

(5) In this Form, "net agricultural income" shall have the meaning assigned to it in the relevant Finance Act

FORM No 29A

[See rule 40A(1)]

Claim for tax credit

To

The Income-tax Officer,

. . .

Sir,

I, . . , being the principal officer of M/s ,
(name of the company)

---

*I, . ,
(name of the claimant)

request that credit under section 54A be granted for the appropriate amount to which *the said company is / I am entitled The relevant particulars are furnished hereinbelow —

1 *(*a*) Where the claimant is a company,—
(*i*) Place of registration and location of head office of the company.
(*ii*) Address of the company in India

*(*b*) Where the claimant is an individual,—
(*i*) Present address
(*ii*) Permanent address
(*iii*) Name of father (or husband)
(*iv*) Domicile and nationality.

2. G I R No. .

3. Date on which the capital assets, being shares in an Indian company, were transferred

4 Assessment year for which the capital gains arising from the transfer of the capital assets aforesaid is chargeable to tax

5 The amount of capital gains aforesaid as assessed/declared in the return of income.

[Where the return of income in respect of the assessment year specified against item 4 has not been furnished, state the amount of capital gains aforesaid chargeable to tax, giving details on a separate sheet]

6 Income-tax payable on the capital gains specified against item 5

7 Cost of acquisition [as ascertained for the purposes of clause (*ii*) of section 48] of the transferred shares

8. Details of amount invested in approved investments.

Sl No	Description of the approved investment	Date of investment	Mode of investment, that is, whether by subscription or by purchase from the specified offices	Amount of the investment
1	2	3	4	5
			GRAND TOTAL	

9. Amount of tax credit claimed

I hereby declare that what is stated above is true to the best of my knowledge and belief.

Place

Date *Signature*

NOTES—(1) The application shall be in duplicate
(2) The application shall be signed by the claimant personally, and where the claimant is a company, by the principal officer of the company
*Delete whichever is not applicable

FORM No 30

[See rule 41]

Claim for refund of tax

I, , of (address) . , do hereby state that my total income computed in accordance with the provisions of the Income-tax Act, 1961, during the year ending on being the previous year for the assessment year commencing on the 1st April, 19 , amounted to Rs . . , that the total income-tax chargeable in respect of such total income is Rs and that the total amount of income-tax paid, or treated as paid under section 199, is Rs

I, therefore, request for a refund of Rs

Signature

I hereby declare that I was resident / resident but not ordinarily resident / non-resident during the previous year relevant to the assessment year to which this claim relates and that what is stated in this application is correct

Dated *19* *Signature*

NOTES—1 The claim should be accompanied by a return of income in the prescribed form unless the claimant has already made such a return to the Income-tax Officer
2 Persons who are non-resident and whose total income is made up only of income taxed at source should make the claim for refund to the Income-tax Officer, Non-resident Refund Circle, Bombay
3 Where any part of the total income consists of dividends or any other income from which tax has been deducted under the provisions of sections 192 to 194, section 194A and section 195, the claim should be accompanied by the certificates prescribed under section 203

FORM No. 31

[See rule 42]

Application for a certificate under section 230(1) of the Income-tax Act, 1961

To

The Income-tax Officer,
Foreign Section

Sir,

I request that *a Tax Clearance Certificate/an Exemption Certificate be granted to me

I give below the necessary particulars —

1 Full name of applicant (in block letters)

1A Present address .

1B Permanent address

2 Name of father (or husband)

3 Domicile and nationality

4 Nature of business or profession, etc , in India

5 Name of Income-tax Circle in which assessed and the G I R No (if known) ..

6 Whether exemption is claimed under any section of the Act If so, which

7 Place(s) at which the business or profession is/was carried on

8. Date of arrival in India (when were the previous visits made and what were the periods of stay in each case)

9 Destination of journey

10 Designation of the Income-tax Officer, if any, who made the last assessment on the applicant .

11 Probable date of departure

12 Mode of travel (by air/sea/land*)

13 Date of intended return, if any

14 Passport No /Emergency Certificate No issued on (date) from (place and country)

I declare that to the best of my knowledge and belief, the information furnished in the application is correct, complete and is truly stated

†Authorisation form obtained from the Income-tax Officer is enclosed herewith

Yours faithfully,

Place

Date *Applicant*

---

*Delete the inappropriate words

†This applies only if the applicant is a person domiciled in India or is a person who has been assessed by an Income-tax Officer anywhere in India

FORM No 32

[See rule 42]

Authorisation from assessing Income-tax Officer

Folio No ..

GOVERNMENT OF INDIA

To

The Income-tax Officer,

Foreign Section

1 Full name (in block letters) . . .

2 Name of father (or husband) . . . ..

3 *Passport No /Emergency Certificate No . .

(i) The abovementioned applicant has been assessed/is assessable by me up to . He/She has

*(a) no liabilities outstanding,

(b) made satisfactory arrangements for the payment of taxes due/which may become due in respect of the assessments up to date/up to . under the Income-tax Act, 1961 (XLIII of 1961), Indian Income-tax Act, 1922 (XI of 1922), the Excess Profits Tax Act, 1940 (XV of 1940), the Business Profits Tax Act, 1947 (XXI of 1947), the Wealth-tax Act, 1957 (XXVII of 1957), the Expenditure-tax Act, 1957 (XXIX of 1957), or the Gift-tax Act, 1958 (XVIII of 1958) He/She may accordingly be issued a Clearance Certificate in Form No 33.

(ii) The abovementioned applicant is assessable in my jurisdiction. He/She intends travelling abroad leaving India by air/sea/land* from ... . As he/she* intends to return to India, he/she* may be given an Exemption Certificate in Form No 34

Valid for presentation to Income-tax Officer (Foreign Section) within one month from date of issue

Place *Income-tax Officer*

Date *Designation*

(SEAL)

NOTES —1 *Delete the inappropriate words or paragraphs

2 Where the person applying for a tax clearance certificate or an exemption certificate is a person domiciled in India or is a person assessed by an Income-tax Officer anywhere in India, the application for the certificate has to be accompanied by an authorisation in this form to be obtained from the Income-tax Officer who has jurisdiction over the applicant

3 This authorisation form does not by itself constitute a tax clearance certificate or an exemption certificate

FORM No 33

[See rule 43]

Clearance certificate under section 230(1) of the Income-tax Act, 1961

Folio No . ..

GOVERNMENT OF INDIA

1 Full name (in block letters)

2. Name of father (or husband)

3 Passport No /Emergency Certificate No ..

This is to certify that the abovementioned applicant has

*(*a*) no liabilities outstanding,

*(*b*) made satisfactory arrangements for the payment of taxes which are or may become payable under the Income-tax Act, 1961 (XLIII of 1961), Indian Income-tax Act, 1922 (XI of 1922), the Excess Profits Tax Act, 1940 (XV of 1940), the Business Profits Tax Act, 1947 (XXI of 1947), the Wealth-tax Act, 1957 (XXVII of 1957), the Expenditure-tax Act, 1957 (XXIX of 1957), or the Gift-tax Act, 1958 (XVIII of 1958)

This certificate is valid for a journey or journeys to be commenced on or after and before

Place *Income-tax Officer,*

Date *Foreign Section*

(SEAL)

*Strike out the paragraph which is not applicable

FORM No 34

[See rule 43]

Exemption certificate under proviso to section 230(1) of the Income-tax Act, 1961

GOVERNMENT OF INDIA

Certificate No .

1 Full name (in block letters)

2. Name of father (or husband)

3 Passport No /Emergency Certificate No

This is to certify that the abovementioned applicant who intends to travel abroad is exempted from producing a Clearance Certificate under section 230(1) of the Income-tax Act, 1961 (XLIII of 1961), in respect of the journey/journeys to be undertaken on or after and before

Place *Income-tax Officer,*

Date *Foreign Section*

(SEAL)

FORM No 34A

[See rule 44A]

Application for a certificate under section 230A(1) of the Income-tax Act, 1961

To

The Income-tax Officer,

Sir,

I request that a certificate under sub-section (1) of section 230A of the Income-tax Act, 1961, be granted to me

I give below the necessary particulars.

1 Full name and address of applicant (in block letters)

2 Status (whether individual, H U F, etc)

3 Name of father (or husband) (To be filled in if the applicant is an individual)

4 (*i*) In case any assessment has been made on the applicant under the Indian Income-tax Act, 1922/ Income-tax Act, 1961/Wealth-tax Act, 1957/Expenditure-tax Act, 1957/Gift-tax Act, 1958, name of Income-tax Circle/Ward/District in which such assessment in respect of the latest year was made

(*ii*) If no assessment has been made as stated above, whether a return has been submitted under any of the said Acts for any year, and if so, the amount of income/ wealth/expenditure/gift returned for each such year and the Circle/Ward/District where such return has been filed

5 (*i*) Names and addresses of all firms or associations of persons or bodies of individuals in which applicant is a partner or member and the Income-tax Circle/ Ward/District in which each such firm or association of persons or body of individuals is assessed to tax

(*ii*) Names and addresses of all private limited companies in which applicant is or has been a director at any time after 1st April, 1962, and the Circle/Ward/ District in which each such company is assessed to tax

6 Particulars of existing tax liability as on the date of the application under,—

	C A P /Asst year	Amount Rs
(*i*) the Excess Profits Tax Act, 1940		
(*ii*) the Business Profits Tax Act, 1947		
(*iii*) the Indian Income-tax Act, 1922		
(*iv*) the Income-tax Act, 1961		
(*v*) the Wealth-tax Act, 1957		
(*vi*) the Expenditure-tax Act, 1957		
(*vii*) the Gift-tax Act, 1958		

(If there is no existing liability against the applicant on the date of the application under any one of the aforesaid Acts, this should be indicated by writing "NIL" against the name of the relevant Act)

7 (*i*) Nature of the document, *i e*, whether a deed of sale, gift, settlement, lease, etc, proposed to be registered

(*ii*) Nature of applicant's right, title or interest to or in the property purported to be transferred, assigned, limited or extinguished

8 (*i*) In case the transferor is not the beneficial owner of or has no beneficial right or interest in the property proposed to be transferred, the name(s) and address(es) of the beneficial owner/owners

(*ii*) In case the property is held by the applicant as a trustee, agent, guardian or in any other capacity on behalf of any person or persons, the name(s) and address(es) of such other person/persons

9 In a case where the applicant is a trustee, the particulars of all existing tax liabilities, if any, of the beneficiary(ies) of the trust as on the date of application, under —

[To be filled in only if the beneficiary(ies) is/are chargeable to tax]

	C A P /Asst year	Amount Rs
(*i*) the Excess Profits Tax Act, 1940		
(*ii*) the Business Profits Tax Act, 1947		
(*iii*) the Indian Income-tax Act, 1922		
(*iv*) the Income-tax Act, 1961		
(*v*) the Wealth-tax Act, 1957		
(*vi*) the Expenditure-tax Act, 1957		
(*vii*) the Gift-tax Act, 1958		

(Particulars should be given in a separate sheet if there is more than one such beneficiary)

10 Date on which the right, title or interest to or in the property concerned was acquired

11 Cost of acquisition of the property If the property was constructed by the applicant, cost of acquisition of the land and cost of construction

12 Particulars of the source or sources from which the cost of acquisition or construction was met

13 If the property or part thereof was acquired under any of the following modes of acquisition, the particular mode of acquisition applicable to the applicant should be indicated

(*i*) on any distribution of assets on the total or partial partition of a Hindu undivided family

(*ii*) under a gift or will

(*iii*) (*a*) by succession, inheritance or devolution, or

(*b*) on any distribution of assets on the dissolution of a firm, body of individuals or other association of persons, or

(*c*) on any distribution of assets on the liquidation of a company, or

(*d*) under a transfer to a revocable or an irrevocable trust, or

(*e*) any other mode not covered by the above

14 Name and address of the transferee, assignee, etc

15 (*i*) Full value of the consideration for which the property or the right, title or interest to or in the property is purported to be transferred

(*ii*) If the transfer is to be without consideration, the value for purposes of stamp duty

16 Particulars of the property, i e, its nature, extent, location, area, etc . . .

17 Designation and address of the registering officer to whom the document has been/will be presented for registration . .

I declare that to the best of my knowledge and belief, the information furnished above is correct, complete and is truly stated.

Place

Date Yours faithfully,

Signature

NOTES —1 This application should be signed—

(a) in the case of an individual, by the individual himself; where the individual is absent from India, by the individual concerned or by some person duly authorised by him in this behalf, and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf,

(b) in the case of a Hindu undivided family, by the *karta*, and, where the *karta* is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family,

(c) in the case of a company or local authority, by the principal officer thereof,

(d) in the case of a firm, by any partner thereof, not being a minor,

(e) in the case of any other association or body of individuals, by any member of the association or body or the principal officer thereof, and

(f) in the case of any other person, by that person or by some person competent to act on his behalf

2 This application should be submitted in duplicate and should be accompanied by a copy of the document which is to be registered

To

The Registrar/Sub-Registrar,

1 The abovementioned applicant has been assessed/is assessable* by me up to .

2 He/She/It* has

*no liabilities outstanding,

*made satisfactory provision for payment of taxes due under the Income-tax Act, 1961, Indian Income-tax Act, 1922, Excess Profits Tax Act, 1940, Business Profits Tax Act, 1947, Wealth-tax Act, 1957, Expenditure-tax Act, 1957, and Gift-tax Act, 1958

3 *The registration of the document mentioned against item No 7(i) of the application will not prejudicially affect the recovery of any of the taxes due under the Income-tax Act, 1961, Indian Income-tax Act, 1922, Excess Profits Tax Act, 1940, Business Profits Tax Act, 1947, Wealth-tax Act, 1957, Expenditure-tax Act, 1957, and Gift-tax Act, 1958

Signature

Designation · *Income-tax Officer,*
Ward/District/Circle

NOTE —*Delete the inappropriate words or paragraphs

FORM No 35

[See rule 45]

Appeal to the Appellate Assistant Commissioner of Income-tax

Designation of the Appellate Assistant Commissioner

*No of 19 —19

Name and address of the appellant	
Permanent Account Number	
†Assessment year in connection with which the appeal is preferred	
Income-tax Officer/Valuation Officer passing the order appealed against	
Section and sub-section of the Income-tax Act, 1961, under which the Income-tax Officer/Valuation Officer passed the order appealed against and the date of such order	
Where the appeal relates to any tax deducted under section 195(1), the date of payment of the tax	
Where the appeal relates to any assessment or penalty, the date of service of the relevant notice of demand	
In any other case, the date of service of the intimation of the order appealed against	
Where the appeal relates to an assessment under section 144 and an application has been made under section 146,— (*a*) the date of application, (*b*) where an order has been passed on the application, the date of service of such order on the appellant	
Section and clause of the Income-tax Act, 1961, under which the appeal is preferred	
Where a return has been filed by the appellant for the assessment year in connection with which the appeal is preferred, whether tax due on the income returned has been paid in full (If the answer is in the affirmative, give details of date of payment and amount paid)	
Where no return has been filed by the appellant for the assessment year in connection with which the appeal is preferred, whether an amount equal to the amount of advance tax payable by him during the financial year immediately preceding such assessment year has been paid (If the answer is in the affirmative, give details of date of payment and amount paid)	
‡Relief claimed in appeal	
Address to which notices may be sent to the appellant	

Signed

Appellant

STATEMENT OF FACTS

GROUNDS OF APPEAL

Signed

Appellant

FORM OF VERIFICATION

I, , the appellant, do hereby declare that what is stated above is true to the best of my information and belief

Place *Signature*
Date *Status of appellant*

NOTES —(1) The form of appeal, grounds of appeal and the form of verification appended thereto shall be signed by a person in accordance with the provisions of rule 45(2)
(2) The memorandum of appeal, statement of facts and the grounds of appeal must be in duplicate and should be accompanied by a copy of the order appealed against and the notice of demand in original, if any
(3) Delete the inappropriate words
(4) *These particulars will be filled in in the office of the Appellate Assistant Commissioner
(5) †Not to be filled in if the appeal relates to tax deducted under section 195(1)
(6) ‡If the space provided herein is insufficient, separate enclosures may be used for the purpose

FORM No 36

[See rule 47(1)]

Form of appeal to the Appellate Tribunal

In the Income-tax Appellate Tribunal,
*Appeal No of 19 —19

. *Versus*

(Appellant) (Respondent)

1 The State in which the assessment was made	
2 Section under which the order appealed against was passed	
3 †Assessment year in connection with which the appeal is preferred	
4 **The Income-tax Officer passing the original order	
5 **Section of the Income-tax Act, 1961, under which the Income-Tax Officer passed the order	
6 **The Appellate Assistant Commissioner passing the order under section 131(2)/154/250/271	
7 **The Inspecting Assistant Commissioner passing the order under section 154/274(2)	
8 **The Commissioner passing the order under section 154/263/285A	
9 Date of communication of the order appealed against	
10 Address to which notices may be sent to the appellant	
11 Address to which notices may be sent to the respondent	
12 Date on which the return of income, if any, for the assessment year referred to in item 3 was filed	
13 Date on which the assessee was served with a notice, if any, calling upon him to file the return for the assessment year referred to in item 3	
14 ‡Relief claimed in appeal	

‡GROUNDS OF APPEAL

1
2
3
4
etc

Signed
Appellant

Signed
Authorised representative, if any

VERIFICATION

I, , the appellant, do hereby declare that what is stated above is true to the best of my information and belief.

Verified today the.. . day of 19

Signed

NOTES —1 The memorandum of appeal must be in triplicate and should be accompanied by two copies (at least one of which should be a certified copy) of the order appealed against and two copies of the relevant order of the Income-tax Officer

2 The memorandum of appeal in the case of an appeal by an assessee under section 253(1) of the Act must be accompanied by a fee of one hundred rupees in a case where either of the dates shown against items 12 and 13 falls before 1st April, 1971, and one hundred and twenty-five rupees in any other case It is suggested that the fee should be credited in the Treasury or a branch of the State Bank of India or a branch of the Reserve Bank of India after obtaining a chalan from the Income-tax Officer and the triplicate chalan sent to the Appellate Tribunal with the memorandum of appeal The Appellate Tribunal will not accept cheques, drafts, hundies or other negotiable instruments

3 The memorandum of appeal should be written in English and should set forth, concisely and under distinct heads, the grounds of appeal without any argument or narrative and such grounds should be numbered consecutively

4 *The number and year of appeal will be filled in in the office of the Appellate Tribunal

5 †This column is not to be filled in where the appeal relates to any tax deducted under section 195(1)

6 **Delete the inapplicable columns

7 ‡If the space provided is found insufficient, separate enclosures may be used for the purpose

FORM No 36A

[See rule 47(1)]

Form of memorandum of cross-objections to the Appellate Tribunal

In the Income-tax Appellate Tribunal,

*Cross-objection No of 19 —19

**In Appeal No . of 19 —19

Versus

(Appellant) (Respondent)

1 **Appeal No allotted by the Tribunal to which memorandum of cross-objections relates	
2 The State in which the assessment was made	
3 Section under which the order appealed against was passed	
4 Assessment year in connection with which the memorandum of cross-objections is preferred	
5 Date of receipt of notice of appeal filed by the appellant to the Tribunal	
6 Address to which notices may be sent to the respondent (cross-objector)	

7 Address to which notices may be sent to the appellant	
8 †Relief claimed in the memorandum of cross-objections	

†GROUNDS OF CROSS-OBJECTIONS

1.
2
3
4
etc

Signed
Respondent

Signed
Authorised representative, if any

VERIFICATION

I, , the respondent, do hereby declare that what is stated above is true to the best of my information and belief.

Verified today the day of 19..

Signed

NOTES —1 The memorandum of cross-objections must be in triplicate
2 The memorandum of cross-objections should be written in English and should set forth, concisely and under distinct heads, the cross-objections without any argument or narrative and such objections should be numbered consecutively
3 *The number and year of memorandum of cross-objections will be filled in in the office of the Appellate Tribunal
4 **The number and year of appeal as allotted by the office of the Tribunal and appearing in the notice of appeal received by the respondent is to be filled in here by the respondent
5 †If the space provided is found insufficient, separate enclosures may be used for the purpose

FORM No. 37
[See rule 48]

Reference application under section 256(1) of the Income-tax Act, 1961

In the Income-tax Appellate Tribunal, ...

In the matter of the assessment of . . (name of the assessee)
R. A. No of 19 . (to be filled in by the office)
Versus . . . .
(Applicant) (Respondent)
State from which the application is filed . . ..
Name and number of the appeal which gives rise to the reference .. .

The applicant states as follows —

1. that the appeal noted above was decided by the .. Bench of the Tribunal on . . . .

2 that notice of the order under sub-section (1) of section 254 of the Income-tax Act, 1961, was served on the applicant on

3. that the facts which are admitted and/or found by the Appellate Tribunal and which are necessary for drawing up a statement of the case, are stated in the enclosure for ready reference

4. that the following questions of law arise out of the order of the Appellate Tribunal

(1)

(2)

(3)

5. that the applicant, therefore, requires under sub-section (1) of section 256 of the aforesaid Act, that a statement of the case be drawn up and the questions of law numbered out of the questions of law referred to in paragraph 4 above be referred to the High Court

6 that the date on which the return of income, for the assessment year in connection with which the reference application is being made, was filed is and the date on which the assessee was served with a notice calling upon him to file the return of income for that assessment year is

7 that the documents or copies thereof as specified below (the translation in English of the documents, where necessary, is annexed) be forwarded to the High Court with the statement of the case

Signed

Applicant

Signed

Authorised representative, if any

NOTE—The application when made by an assessee must be accompanied by a fee of one hundred rupees in a case where either of the dates mentioned in paragraph 6 falls before 1st April, 1971, and one hundred and twenty-five rupees in any other case It is suggested that the fee should be credited in the Treasury or a branch of the State Bank of India or a branch of the Reserve Bank of India, after obtaining a chalan from the Income-tax Officer and the triplicate chalan sent to the Appellate Tribunal with the application The Appellate Tribunal will not accept cheques, drafts, hundies, or other negotiable instruments

FORM No. 37A

[See rule 48A(i)]

Notice of demand under section 156 of the Income-tax Act, 1961, for making of advance deposit under section 280F of the Income-tax Act, 1961

To

This is to give you notice under section 280F of the Income-tax Act, 1961, that the amount of advance deposit required to be made by you during the financial year 19 —19 has been determined to be Rs as specified in the enclosed order.

2. Whereas after the issue of the previous notice of demand served on you on *your provisional/regular assessment / an assessment of the registered firm in which you are a partner for an assessment year later than that referred to in the order under section 280F(1), dated 19 , has been completed *you have paid tax under section 140A for an assessment year later than that referred to in the order under section 280F(1), dated 19 , the amount of advance deposit required to be made by you has been redetermined to be Rs as specified in the enclosed order

3 The amount should be deposited in equal instalments on or before the 1st June, 1st September, 1st December, 19 , and 1st @/15th March, 19 , respectively with any office of the Reserve Bank of India or any branch (within India) of the State Bank of India or any of its subsidiary banks If the amount is deposited, the bank shall issue to you Ten-Year Annuity Deposit Certificate(s) of face-value equal to the amount of deposit If this notice of demand is served upon you after any of the dates on which the instalments specified herein are due, the amount should be deposited in equal instalments on the dates which fall after the service of the notice or in one instalment if the notice is served after the 1st day of December, 19

4 If at any time before the last instalment as aforesaid is due, you estimate that your total income or adjusted total income of the previous year relevant to the assessment year commencing on the 1st day of April, , is less than the amount with reference to which or, as the case may be, in respect of which you have been asked to make advance deposit as above and accordingly you wish to make a deposit of an amount less than the amount which you have been required to deposit by this notice, you may send to the Income-tax Officer (*i*) an estimate of the adjusted total income of the said previous year, and (*ii*) an estimate of the advance deposit to be made in respect of such adjusted total income calculated in the manner laid down under section 280E, and in that event you should make such deposit (less any instalment already deposited in accordance with paragraph 3 of this notice) as accords with your estimate in equal instalments on such of the dates specified above as have not expired or in one sum if the last of such dates is the only one which has not yet expired You may revise your estimate at any time before the last instalment is due and may adjust any excess or deficiency in respect of any instalment already deposited in a subsequent instalment or instalments

5. If your income of the previous year relevant to the assessment year commencing on the 1st day of April, 19 , includes any income of the nature of commission which is receivable periodically and is not received or adjusted by the payer in your account before any of the quarterly instalments of advance deposit becomes due, you may defer the making of advance deposit in respect of that part of your income to the date when such income is normally receivable or adjustable, and if you do so, you should inform the Income-tax Officer of the date to which the making of deposit is so deferred

6 If the amount of instalments required to be deposited by you as above is not a multiple of ten rupees, the amount of each such instalment, except the last instalment, should be rounded off to the nearest multiple of ten rupees and where such amount contains a part of ten rupees then, if such part is five rupees or more, it should be increased to ten rupees and if such part is less than five rupees, it should be ignored Any excess or deficiency should be adjusted in the last instalment

7 If not having made an estimate of the advance deposit required to be made by you under sub-section (1) or (2) of section 280H, you do not deposit any instalment of advance deposit on or before the date on which it becomes due under paragraph 3 of this notice, you will be treated as in default in respect of such instalment and will be

liable under section 280R to a penalty which may be as great as one-half of the instalment due If, however, you have under section 280-I deferred the making of a part of the advance deposit and have informed the Income-tax Officer accordingly, you will not be treated as in default in respect of such deposit until the date of deferment

8 If, under sub-section (1) or (2) of section 280H, you send to the Income-tax Officer an estimate of the advance deposit to be made by you, but do not deposit any instalment of annuity deposit in accordance therewith on or before the appropriate date, you will be treated as in default in respect of such instalment and will be liable under section 280R to a penalty which may be as great as one-half of the amount of the instalment.

Date *Income-tax Officer*

Place *Address*

NOTE 1—If you are an author, playwright, artist, musician or actor, you have the option under section 280U of the Income-tax Act, 1961, to make a further deposit of an amount not exceeding twenty-five per cent of your income from such profession included in your total income of the previous year relevant to the assessment year commencing on the 1st day of April, 19 Any such further deposit may be made in the same manner as the advance deposit referred to in this notice

NOTE 2—If your total income of the previous year relevant to the assessment year commencing on the 1st day of April, 19 , includes any gratuity chargeable under the head "Salaries" you have the option under section 280V of the Income-tax Act, 1961, to make a further deposit of an amount not exceeding fifty per cent of the amount of such gratuity Any such further deposit may be made in the same manner as the advance deposit referred to in the above notice

* Delete inappropriate paragraphs or words

@ Applicable in cases covered by the proviso to section 211(1) as applied to advance deposit by section 280G

ENCLOSURE TO FORM NO 37A

Order under section 280F of the Income-tax Act, 1961

Name of depositor District or area

State No in General Index Register

Address . .

	Rs	Rs
Total income on the basis of which *tax under section 140A has been paid / regular/provisional assessment has been made being that for the assessment year 19 —19		
Less		
(i) Sums included in salary under section 17(1)(vii)		
(ii) Income chargeable under the head "Salaries" in respect of which the assessee can make an application for the grant of relief under section 89(1) .		
(iii) The depositor's share in the profits and gains of an unregistered firm (liable to make an annuity deposit for the relevant assessment year) of which he is a partner		
(iv) The amount which the depositor, by virtue of his membership of an association of persons or a body of individuals (other than a Hindu undivided family or a firm) which is liable to make an annuity deposit for the relevant assessment year, is entitled to receive therefrom		

	Rs	Rs
(*v*) Compensation or other payment referred to in section 28(*ii*)		
(*vi*) Capital gains		
(*vii*) Annuity under the Annuity Deposit Scheme		
Income in respect of which annuity deposit is to be made		
Total sum required to be deposited		

(In figures as well as in words)

Rs (Rupees . Paise)

Date *Income-tax Officer*

Address

---

*Delete inappropriate words

FORM No. 37B

[See rule 48A(*ii*)]

Notice of demand under section 156 of the Income-tax Act, 1961, for making annuity deposit provisionally determined under section 280K of the Act

To

Status

G I.R No

This is to give you notice that under section 280K of the Income-tax Act, 1961, the amount of annuity deposit required to be made by you for the assessment year 19 —19 on the basis of income provisionally assessed under section 141 has been determined to be Rs

2 The amount should be deposited with any office of the Reserve Bank of India or any branch (within India) of the State Bank of India or any of its subsidiary banks within 35 days / days of the service of this notice The previous approval of the Inspecting Assistant Commissioner of Income-tax has been obtained for allowing a period of less than 35 days for the making of the above deposit If the deposit is made, the aforesaid bank shall issue to you Annuity Deposit Certificate(s) of face-value equal to the amount of deposit.

3 If you do not make the deposit within the period specified above, penalty (which may be as great as one-half the amount of annuity deposit in arrear) may be imposed upon you after giving you a reasonable opportunity of being heard in accordance with the provisions of section 280R

4 If you do not make the deposit within the period specified above, proceedings for the recovery thereof will be taken in accordance with sections 222 to 229 and 231 to 233 of the Income-tax Act, 1961.

Date *Income-tax Officer*

Place *Address*

NOTE —Delete inappropriate words

FORM No. 37C

[See rule 48A(iii)]

Notice of demand under section 156 of the Income-tax Act, 1961, for making of annuity deposit other than advance deposit or the deposit required to be made under section 280K on the basis of income provisionally assessed under section 141 of the Act

To

. ...

. . . .

. ... .

Status

G.I R. No.

This is to give you notice that the amount of annuity deposit required to be made by you for the assessment year 19 —19 has been determined to be Rs . as per details given on the reverse.

2 The amount should be deposited with any office of the Reserve Bank of India or any branch (within India) of the State Bank of India or any of its subsidiary banks within $\frac{35 \text{ days}}{\text{days}}$ of the service of this notice The previous approval of the Inspecting Assistant Commissioner of Income-tax has been obtained for allowing a period of less than 35 days for the making of the above deposit If you make the deposit, the bank shall issue to you Annuity Deposit Certificate(s) of face-value equal to the amount of the deposit

3 If you do not make the deposit on or before the expiry of the period specified above, penalty (which may be as great as one-half the amount of annuity deposit in arrear) may be imposed upon you after giving you a reasonable opportunity of being heard in accordance with section 280R

Date *Income-tax Officer*

Place *Address*

NOTE —Delete inappropriate paragraphs and words

FORM No. 37D

[See rule 48B]

Estimate of the advance deposit required to be made under section 280H of the Income-tax Act, 1961, for the financial year ending on the 31st March, 19

Name of the assessee . . .

Status (Please state whether individual, Hindu undivided family, unregistered firm or an association of persons) . ..

Address .

The advance deposit to be made by the depositor named above during the financial year 19 —19. is estimated as follows —

1 Estimated total income of the previous year ending on 19

(1) Income from "Salaries" Rs

(2) Interest on securities Rs

(3) Income from house property . Rs. . . .

(4) Profits and gains of business or profession . Rs. ...

(a) Proprietary business or profession

Name	Address	
(i)		Rs. .. ..
(ii)		. Rs. . .

(b) Share from firm(s)

Name of the firm	Address	Whether firm has been registered in the last completed assessment	Share of income

Rs. Rs

(c) Income from an association of persons or body of individuals

TOTAL [(a)+(b)+(c)]

(5) Capital gains

(6) Income from other sources

(a) Dividend

(b) Interest

(c) Other incomes

TOTAL INCOME

2 *Less*

(i) Sums included in salary under section 17(1)(vii)

(ii) Income chargeable under the head "Salaries" in respect of which the assessee can make an application for the grant of relief under section 89(1)

(iii) The depositor's share in the profits and gains of an unregistered firm (liable to make an annuity deposit for the relevant assessment year) of which he is a partner

(iv) The amount which the depositor, by virtue of his membership of an association of persons or a body of individuals (other than a Hindu undivided family or a firm) which is liable to make an annuity deposit for the relevant assessment year, is entitled to receive therefrom

(v) Compensation or other payment referred to in section 28(ii)

(vi) Capital gains

(vii) Annuity under the Annuity Deposit Scheme

TOTAL [(i)+(ii)+(iii)+(iv)+(v)+(vi)+(vii)]

ADJUSTED TOTAL INCOME

3 Total sum required to be deposited during the financial year under section 280H

4 *Less*

(i) Annuity deposit already made in the financial year under section 280H

And whereas the said sum of Rs . has not been paid in satisfaction of the said certificate,

This is to direct you to serve a copy of this warrant on the defaulter and, unless after such service the said defaulter pays forthwith the said sum of Rs . . together with interest at twelve per cent per annum on Rs . from the date of the issue of this warrant and Rs for the cost of executing this process, to proceed to attach the movable property of the said defaulter [and where necessary, the movable property which is included in the defaulter's property by virtue of the *Explanation* to sub-section (1) of section 222 of the Income-tax Act, 1961] and to hold the same until further orders from the undersigned

You are further directed to return this warrant on or before the day of 19 , with an endorsement certifying the day on which and the manner in which it has been executed, or the reason why it has not been executed

Given under my hand and seal at this day of

(SEAL) *Tax Recovery Officer*

---

*Score out whichever paragraph is not applicable
†Delete inappropriate words

FORM No I.T C P. 3

[See rule 26(1)(*i*) of the Second Schedule to the Income-tax Act, 1961]

Prohibitory order where the property consists of debts not secured by negotiable instruments

Office of the Tax Recovery Officer,
. .. ..

To

.

*Whereas . . .has failed to pay the arrears due from him in
(defaulter)
respect of certificate No. . . dated forwarded by the Income-tax Officer, ., amounting to Rs and the interest payable under section 220(2) of the Income-tax Act, 1961, for the period commencing immediately after the said date,

*Whereas .. had failed to pay the arrears due from him in
(defaulter)
respect of certificate No . dated . forwarded by the Income-tax Officer, . , to the Tax Recovery Officer, , amounting to Rs . and the interest payable under section 220(2) of the Income-tax Act, 1961, for the period commencing immediately after the said date, and whereas the said Tax Recovery Officer has sent to the undersigned a certified copy of the said certificate under section 223(2) of the said Act specifying that an amount of Rs is to be recovered from the defaulter;

It is ordered that † be, and is hereby, prohibited and
(name of creditor)
restrained, until the further order of the undersigned, from receiving from you a certain debt alleged now to be due from you to † . .
(name of creditor)

And that you, the said ...., be, and you are hereby, prohibited and restrained, until the further order of the undersigned, from making payment of the said debt or any part thereof, to any person whomsoever or otherwise than to the undersigned.

Given under my hand and seal at ....., this ..... day of .....

(SEAL) *Tax Recovery Officer*

*Score out whichever paragraph is not applicable.
†Fill in the name of the defaulter, and where the property is included in the defaulter's property by virtue of the *Explanation* to sub-section (1) of section 222 of the Income-tax Act, 1961, fill in the name of the person referred to in that *Explanation*.

FORM No. I.T.C.P. 4

[See rule 26(1)(a) of the Second Schedule to the Income-tax Act, 1961]

Prohibitory order where the property consists of shares in a corporation

Office of the Tax Recovery Officer,

To

(1) ....

(2) ....
(principal officer)

(name of corporation)

*Whereas ..... (defaulter) has failed to pay the arrears due from him in respect of certificate No. ..... dated ..... forwarded by the Income-tax Officer, ..., amounting to Rs. ..... and the interest payable under section 220(2) of the Income-tax Act, 1961, for the period commencing immediately after the said date,

*Whereas ..... (defaulter) had failed to pay the arrears due from him in respect of certificate No. ..... dated ..... forwarded by the Income-tax Officer, ..., to the Tax Recovery Officer, ... amounting to Rs. ..... and the interest payable under section 220(2) of the Income-tax Act, 1961, for the period commencing immediately after the said date, and whereas the said Tax Recovery Officer has sent to the undersigned a certified copy of the said certificate under section 223(2) of the said Act specifying that an amount of Rs. ..... is to be recovered from the defaulter;

It is ordered that you, No. (1) abovementioned, be, and you are hereby, prohibited and restrained, until the further order of the undersigned, from making any transfer of the shares in the aforesaid corporation standing in your name or from receiving payment of any dividends thereon. *It may be noted that the property consisting of shares is included in the defaulter's property by virtue of the Explanation to sub-section (1) of section 222 of the Income-tax Act, 1961.*

And that you, No (2) abovementioned, are hereby prohibited and restrained, until the further order of the undersigned, from permitting any such transfer or making any such payment.

Given under my hand and seal at . . . this . day of .

(SEAL) *Tax Recovery Officer*

---

*Score out whichever paragraph is not applicable
†Score out portion in italics, if not applicable

FORM No I T.C P 5

[See rule 26(1)(*ii*) of the Second Schedule to the Income-tax Act, 1961]

Prohibitory order where the property to be attached consists of movable property to which the defaulter is entitled subject to a lien or right of some other person to the immediate possession thereof

Office of the Tax Recovery Officer,
. . .
..

To

..
. ...

*Whereas (defaulter) has failed to pay the arrears due from him in respect of certificate No . . dated forwarded by the Income-tax Officer, . , amounting to Rs and the interest payable under section 220(2) of the Income-tax Act, 1961, for the period commencing immediately after the said date,

*Whereas . (defaulter) had failed to pay the arrears due from him in respect of certificate No ... dated . forwarded by the Income-tax Officer, . . . , to the Tax Recovery Officer, ... , amounting to Rs. and the interest payable under section 220(2) of the Income-tax Act, 1961, for the period commencing immediately after the said date, and whereas the said Tax Recovery Officer has sent to the undersigned a certified copy of the said certificate under section 223(2) of the said Act specifying that an amount of Rs is to be recovered from the defaulter,

It is ordered that† .. . . (name of person entitled to property) be, and is hereby, prohibited and restrained, until the further order of the undersigned, from receiving from you, namely, , the following property in the possession of the said† . , that is to say

to which the said † . . . is entitled, subject to your claim of immediate possession thereof.

And that you are hereby prohibited and restrained, until the further order of the undersigned, from delivering the said property to any person or persons whomsoever

Given under my hand and seal at this day of

(SEAL) *Tax Recovery Officer*

---

*Score out whichever paragraph is not applicable

†Fill in the name of the defaulter, and where the movable property is included in the defaulter's property by virtue of the *Explanation* to sub-section (1) of section 222 of the Income-tax Act, 1961, fill in the name of the person referred to in that *Explanation*

FORM No I T C.P 6

[See rule 27 of the Second Schedule to the Income-tax Act, 1961]

Notice of attachment of a decree of a civil court

Office of the Tax Recovery Officer,

. . . . . .

. . .

Dated . . . .

To

The Judge of the Court of

Sir,

*Whereas (defaulter) has failed to pay the arrears due from him in respect of certificate No dated forwarded by the Income-tax Officer, , amounting to Rs and the interest payable under section 220(2) of the Income-tax Act, 1961, for the period commencing immediately after the said date,

*Whereas (defaulter) had failed to pay the arrears due from him in respect of certificate No . dated forwarded by the Income-tax Officer, . , to the Tax Recovery Officer, . , amounting to Rs and the interest payable under section 220(2) of the Income-tax Act, 1961, for the period commencing immediately after the said date, and whereas the said Tax Recovery Officer has sent to the undersigned a certified copy of the said certificate under section 223(2) of the said Act specifying that an amount of Rs is to be recovered from the defaulter,

And whereas the undersigned in exercise of his powers under the Second Schedule to the said Act, desires to proceed with attachment of a decree of . Court dated the day of made in suit No . of wherein was the plaintiff and † was the defendant and which decree is pending execution in your Court,

You are, therefore, requested to stay the execution of the said decree unless and until—

(i) the undersigned cancels this notice, or

(ii) the Income-tax Officer, , or the abovementioned defaulter applies to you to execute the decree.

Yours faithfully,

(SEAL) *Tax Recovery Officer*

---

*Score out whichever paragraph is not applicable
†Fill in the name of the defaulter, and where the movable property is included in the defaulter's property by virtue of the *Explanation* to sub-section (1) of section 222 of the Income-tax Act, 1961, fill in the name of the person referred to in that *Explanation*

FORM No ITCP 7

[See rule 28 of the Second Schedule to the Income-tax Act, 1961]

Notice of attachment where the property consists of a share or interest in movable property

Office of the Tax Recovery Officer,

..

To

*Whereas you have not paid the arrears amounting to Rs payable by you in respect of certificate No dated forwarded by the Income-tax Officer, , and the interest payable under section 220(2) of the Income-tax Act, 1961, for the period commencing immediately after the said date,

*Whereas (defaulter) has not paid the arrears amounting to Rs . payable by him in respect of certificate No dated forwarded by the Income-tax Officer, . , to the Tax Recovery Officer, , and the interest payable under section 220(2) of the Income-tax Act, 1961, for the period commencing immediately after the said date, and whereas the said Tax Recovery Officer has sent to the undersigned a certified copy of the said certificate under section 223(2) of the said Act specifying that an amount of Rs .is to be recovered from the defaulter,

It is hereby ordered that you † be, and are hereby, prohibited and restrained, until the further order of the undersigned, from transferring or charging in any way your share or interest in the undermentioned items of movable property, belonging to you and and as co-owners.

Given under my hand and seal at this day of

(SEAL) *Tax Recovery Officer*

---

*Score out whichever paragraph is not applicable
†Fill in the name of the defaulter, and where the movable property is included in the defaulter's property by virtue of the *Explanation* to sub-section (1) of section 222 of the Income-tax Act, 1961, fill in the name of the person referred to in that *Explanation*

FORM No ITCP. 8

[See rule 29 of the Second Schedule to the Income-tax Act, 1961]

Order to attach salary or allowances of servants of Government or local authority

Office of the Tax Recovery Officer,

. . .. .

. . .

To

*Whereas . (defaulter) has not paid arrears amounting to Rs. . . in respect of certificate No .. dated . forwarded by the Income-tax Officer, , and the interest payable under section 220(2) of the Income-tax Act, 1961, for the period commencing immediately after the said date,

*Whereas (defaulter) has not paid arrears amounting to Rs in respect of certificate No . dated . forwarded by the Income-tax Officer, , to the Tax Recovery Officer, , and the interest payable under section 220(2) of the Income-tax Act, 1961, for the period commencing immediately after such date, and whereas the said Tax Recovery Officer has sent to the undersigned a certified copy of the said certificate under section 223(2) of the said Act specifying that an amount of Rs . is to be recovered from the defaulter,

And whereas the said is a .. . . (office held by defaulter) receiving his salary and allowances at your hands,

You are hereby required to withhold the sum of Rs . . .from the salary of the said . in monthly instalments of and to remit the said sum in monthly instalments to the undersigned

Given under my hand and seal at .this day of. . .

(SEAL) *Tax Recovery Officer*

*Score out whichever paragraph is not applicable

FORM No. ITCP. 9

[See rule 30 of the Second Schedule to the Income-tax Act, 1961]

Order of attachment of negotiable instrument

Office of the Tax Recovery Officer,

.. . .

. . . .

To

(Attaching Officer)

.

Whereas the undersigned has passed on the . day of . . 19 an order for the attachment of the undermentioned property, **which is*

included in the property of (*defaulter*) *by virtue of the Explanation to sub-section (1) of section 222 of the Income-tax Act, 1961,* in the course of proceedings for the recovery of arrears due from (defaulter) in respect of certificate No dated forwarded by the Income-tax Officer, , **to the Tax Recovery Officer, , a certified copy of which has been forwarded by the said Tax Recovery Officer to the undersigned under section 223(2) of the Income-tax Act, 1961,*

You are hereby directed to seize the said property and bring the same before me and hold the same subject to my orders

DETAILS OF PROPERTY

Given under my hand and seal at this day of

(SEAL) *Tax Recovery Officer*

*Score out portion in italics, if not applicable

FORM No I T C P 10

[See rule 31 of the Second Schedule to the Income-tax Act, 1961]

Notice of attachment of movable property in the custody of a court or public officer

Office of the Tax Recovery Officer,

Dated

To

.

.

Sir,

Whereas (defaulter) has not paid the arrears amounting to Rs in respect of certificate No dated . forwarded by the Income-tax Officer, . , and the interest payable under section 220(2) of the Income-tax Act, 1961, for the period commencing immediately after the said date, **and the said Tax Recovery Officer has sent to the undersigned a certified copy of the said certificate under section 223(2) of the Income-tax Act, 1961, specifying that an amount of Rs . is to be recovered by the undersigned from the defaulter,* and the undersigned desires to attach sums of money or other property, **which is included in the defaulter's property by virtue of the Explanation to sub-section (1) of section 222 of the Income-tax Act, 1961,* now in your custody†,

I request that you will hold the said money or property and any interest or dividend becoming payable thereon subject to the further order of the undersigned

Yours faithfully,

Tax Recovery Officer

NOTES —*Score out portion in italics, if not applicable

†Here state how the money or property is understood to be in the hands of the court or the public officer addressed, on what account and other available details

FORM No I T C P 11

[See rule 32 of the Second Schedule to the Income-tax Act, 1961]

Order of attachment of property consisting of an interest in partnership property

Office of the Tax Recovery Officer,

. . ..

To

.

Whereas has not paid arrears amounting to Rs in respect of a certificate No .. dated forwarded by the Income-tax Officer, , and the interest payable under section 220(2) of the Income-tax Act, 1961, for the period commencing immediately after the said date **and the said Tax Recovery Officer has sent to the undersigned a certified copy of the said certificate under section 223(2) of the Income-tax Act, 1961, specifying that an amount of Rs . is to be recovered by the undersigned from the defaulter,* and whereas the said is a partner in the firm known as Messrs ,

It is hereby ordered

(i) that the share of the said in the partnership property and profits of the said firm be and is hereby charged with the payment of the amount aforesaid due under the said certificate, and

(ii) †that

Given under my hand and seal at this day of

(SEAL) *Tax Recovery Officer*

NOTES —*Score out portion in italics, if not applicable
†Here incorporate any other order that may be considered necessary in the circumstances

FORM No I T C P 12

[See rule 37 and rule 52(1) of the Second Schedule to the Income-tax Act, 1961]

Warrant of sale of property

Office of the Tax Recovery Officer,

.

To

.

These are to command you to sell by public auction, after giving days' previous notice by affixing the same in the office of the undersigned, and after making due proclamation, the undermentioned property attached in execution of certificate No dated forwarded by the

Income-tax Officer, , against (defaulter) **to the said Tax Recovery Officer, , and whereas a certified copy of the said certificate has been sent by the said Tax Recovery Officer to the undersigned under section 223(2) of the Income-tax Act, 1961*, or so much of the said property as shall realise (*i*) the sum of Rs , being the sum of the †amount of the said certificate/specified amount and costs still remaining unsatisfied and (*ii*) interest payable on Rs under section 220(2) of the Income-tax Act, 1961, for the period commencing immediately after the said date of issue of the certificate

2 You are further commanded to return this warrant on or before the . day of 19 , with an endorsement certifying the manner in which it has been executed or the reason why it has not been executed

SPECIFICATION OF PROPERTY

Given under my hand and seal at this day of

(SEAL) *Tax Recovery Officer*

---

*Score out portion in italics, if not applicable
†Delete inappropriate words

FORM No I T C P 13

[See rule 38 and rule 52(2) of the Second Schedule to the Income-tax Act, 1961]

Proclamation of sale

Office of the Tax Recovery Officer,

*Whereas the Income-tax Officer, . , has forwarded the certificate No dated for the recovery of the sum of Rs from .. (defaulter) which sum is recoverable together with interest in accordance with section 220(2) of the Income-tax Act, 1961, for the period commencing immediately after the said date and the costs, charges and expenses of the proceedings for the recovery thereof,

*Whereas the Income-tax Officer, . , had forwarded the certificate No dated to the Tax Recovery Officer, , for the recovery of the sum of Rs . from (defaulter) , and whereas the said Tax Recovery Officer has sent to the undersigned on the day of 19 a certified copy of the certificate under section 223(2) of the Income-tax Act, 1961, specifying that an amount of Rs is to be recovered from the defaulter, which sum is recoverable together with interest in accordance with section 220(2) of the said Act, for the period commencing immediately after the said date and the costs, charges and expenses of the proceedings for the recovery thereof,

And whereas the undersigned has ordered the sale of the attached property mentioned in the annexed schedule in satisfaction of the said certificate,

And whereas on the day of 19 (the date fixed for the sale) there will be due thereunder a sum of Rs . including costs and interest,

Notice is hereby given that, in the absence of any order of postponement, the said property shall be sold by by public auction at A M /P M on the said day of . 19 at

(place)

The sale will be of the property of the defaulter abovenamed/ †*property which is included in the property of the defaulter by virtue of the Explanation to sub-section (1) of section 222 of the Income-tax Act, 1961*, as mentioned in the schedule below, and the liabilities and claims attaching to the said property, so far as they have been ascertained, are those specified in the schedule against each lot

The property will be put up for sale in the lots specified in the schedule If the amount to be realised by sale is satisfied by the sale of a portion of the property, the sale shall be immediately stopped with respect to the remainder The sale will also be stopped if, before any lot is knocked down, the arrears mentioned in the said certificate, interest payable under section 220(2) of the Income-tax Act, 1961, and costs (including the costs of the sale) are tendered to the officer conducting the sale or proof is given to his satisfaction that the amount of such arrears, interest and costs has been paid to the undersigned

At the sale, the public generally are invited to bid either personally or by duly authorised agent No officer or other person, having any duty to perform in connection with this sale shall, however, either directly or indirectly bid for, acquire or attempt to acquire any interest in the property sold

The sale shall be subject to the conditions prescribed in the Second Schedule to the Income-tax Act, 1961, and the rules made thereunder and to the following further conditions —

(*i*) The particulars specified in the annexed schedule have been stated to the best of the information of the undersigned, but the undersigned shall not be answerable for any error, mis-statement or omission in this proclamation

‡(*ii*) The reserve price below which the property shall not be sold is Rs

(*iii*) The amounts by which biddings are to be increased shall be determined by the officer conducting the sale In the event of any dispute arising as to the amount bid, or as to the bidder, the lot shall at once be again put up to auction

(*iv*) The highest bidder shall be declared to be the purchaser of any lot provided always that he is legally qualified to bid and provided further that *the amount bid by him is not less than the reserve price *it shall be in the discretion of the undersigned to decline acceptance of the highest bid when the price offered appears so clearly inadequate as to make it inadvisable to do so

(*v*) For reasons recorded, it shall be in the discretion of the officer conducting the sale to adjourn it subject always to the provisions of the Second Schedule to the Income-tax Act, 1961

(*vi*) In the case of movable property, the price of each lot shall be paid at the time of sale or as soon after as the officer holding the sale directs, and

in default of payment, the property shall forthwith be again put up and resold.

(vii) In the case of immovable property, the person declared to be the purchaser shall pay immediately after such declaration, a deposit of twenty-five per cent. on the amount of his purchase money to the officer conducting the sale and, in default of such deposit, the property shall forthwith be put up again and resold The full amount of the purchase money payable shall be paid by the purchaser to the undersigned on or before the 15th day from the date of the sale of the property, exclusive of such day, or if the 15th day be a Sunday or other holiday, then on the first office day after the 15th day. In default of payment within the period mentioned above, the property shall be resold, after the issue of fresh proclamation of sale The deposit, after defraying the expenses of the sale, may, if the undersigned thinks fit, be forfeited to the Government and the defaulting purchaser shall forfeit all claims to the property or to any part of the sum for which it may subsequently be sold

SCHEDULE OF PROPERTY

No of lot	Description of property to be sold with the names of the other co-owners where the property belongs to the defaulter and any other persons as co-owners	Revenue assessed upon the property or any part thereof	Details of any incumbrances to which the property is liable	Claims, if any, which have been put forward to the property, and any other known particulars bearing on its nature and value
1	2	3	4	5

Given under my hand and seal at this . day of .

(SEAL) *Tax Recovery Officer*

*Score out whichever paragraph/portion is not applicable
†Score out the portion in italics, if not applicable
‡Applies only in the case of auction of immovable property where a reserve price is fixed

FORM No I T C P 14

[See rule 44(2) of the Second Schedule to the Income-tax Act, 1961]

Certificate of sale of movable property

Office of the Tax Recovery Officer,

.

.

This is to certify that Shri . purchased for Rs the undermentioned movable property, **which is included in the property of* .

by virtue of the Explanation to sub-section (1) of section 222 of the Income-tax Act, 1961, (*defaulter*) at a sale by public auction on the day of in execution of certificate No . . dated forwarded by the Income-tax Officer, , for recovery of arrears from , **to the Tax Recovery Officer, , a certified copy of which certificate has been sent by the said Tax Recovery Officer to the undersigned under section 223(2) of the said Act specifying that an amount of Rs . remains to be recovered from* .

SPECIFICATION OF PROPERTY

Given under my hand and seal at this . . day of ..

(SEAL) *Officer holding the sale*

---

*Score out portion in italics, if not applicable

FORM No. ITCP 15

[See rule 47 of the Second Schedule to the Income-tax Act, 1961]

Order for payment to the Income-tax Officer of current coins and currency notes attached

Office of the Tax Recovery Officer,

.. ..

. . . .

To

Whereas in execution of certificate No dated. forwarded by the Income-tax Officer, . , **to the Tax Recovery Officer, . , and whereas the said Tax Recovery Officer has sent a certified copy of the certificate to the undersigned under section 223(2) of the Income-tax Act, 1961*, the following property consisting of current coins/currency notes has been attached —

(1)	(2)
Current coins	*Currency notes*

It is hereby ordered that out of the property so attached Rs in current coins and Rs in currency notes shall be paid over to the Income-tax Officer in satisfaction of the said certificate.

Given under my hand and seal at . this . . .day of .

(SEAL) *Tax Recovery Officer*

---

*Score out portion in italics, if not applicable

FORM No I.T C P. 16

[See rule 48 of the Second Schedule to the Income-tax Act, 1961]

Order of attachment of immovable property

Office of the Tax Recovery Officer,

. .

.

To

..

*Whereas *you/ . (defaulter) *have/has failed to pay the sum of Rs payable by *you/him in respect of certificate No dated . forwarded by the Income-tax Officer, , and the interest payable under section 220(2) of the Income-tax Act, 1961, for the period commencing immediately after the said date,

*Whereas *you/ .. . (defaulter) *have/has failed to pay the sum of Rs . payable by *you/him in respect of certificate No .. . .. dated forwarded by the Income-tax Officer, . . , to the Tax Recovery Officer, , and the interest payable under section 220(2) of the Income-tax Act, 1961, for the period commencing immediately after the said date, and whereas the said Tax Recovery Officer has sent to the undersigned a certified copy of the said certificate under section 223(2) of the said Act specifying that an amount of Rs . is to be recovered from *you/the defaulter,

It is ordered that you, the said be, and you are hereby, prohibited and restrained, until the further order of the undersigned, from transferring or charging the undermentioned property †*which is included in the property of the defaulter by virtue of the Explanation to sub-section (1) of section 222 of the Income-tax Act, 1961*, in any way and that all persons be, and that they are hereby prohibited from taking any benefit under such transfer or charge.

SPECIFICATION OF PROPERTY

Given under my hand and seal at . this day of .

(SEAL) *Tax Recovery Officer*

---

*Score out whichever paragraph/portion is not applicable
†Score out portion in italics, if not applicable

FORM No ITCP 17

[See rule 53 of the Second Schedule to the Income-tax Act, 1961]

Notice for settling a sale proclamation

Office of the Tax Recovery Officer,

.

.

To

*Whereas in execution of certificate No . dated . forwarded by the Income-tax Officer, , †*to the Tax Recovery Officer, , a certified copy of which has been sent by the said Tax Recovery Officer to the undersigned,* the undersigned has ordered the sale of the undermentioned immovable property,

*Whereas in execution of certificate No .dated . . forwarded by the Income-tax Officer, . . . , to the Tax Recovery Officer, , a certified copy of which has been sent by the said Tax Recovery Officer to the undersigned under section 223(2) of the Income-tax Act, 1961, the undersigned has ordered the sale of the undermentioned immovable property which is included in the property of the defaulter by virtue of the *Explanation* to sub-section (1) of section 222 of the said Act,

You are hereby informed that the day of 19 has been fixed for drawing up the proclamation of sale and settling the terms thereof. You are requested to bring to the notice of the undersigned any encumbrances, charges, claims or liabilities attaching to the said properties or any portion thereof

SPECIFICATION OF PROPERTY

Given under my hand and seal at this day of

(SEAL) *Tax Recovery Officer*

---

*Score out whichever paragraph is not applicable
†Score out portion in italics, if not applicable

FORM No ITCP 18

[See rule 63(1) of the Second Schedule to the Income-tax Act, 1961]

Order of confirmation of sale of immovable property

Office of the Tax Recovery Officer,

.

.

purchased for Rs the immovable property specified below, **which is included in the property of* . . *by*
(defaulter)

virtue of the Explanation to sub-section (1) of section 222 of the Income-tax Act, 1961, at a sale held by public auction on the day of . . 19 , in execution of certificate No .. dated forwarded by the Income-tax Officer, , **to the Tax Recovery Officer,* . . . . , *a certified copy of which had been sent by the said Tax Recovery Officer to the undersigned under section 223(2) of the said Act,* for recovery of arrears from The full amount of the purchase money has been paid on

†No application under rule 60/rule 61/rule 62 of the Second Schedule to the Income-tax Act, 1961, has been received for setting aside the sale

†Application under rule 60/rule 61/rule 62 of the Second Schedule to the said Act made by for setting aside the sale has been disallowed by the undersigned

Accordingly, the said sale is hereby confirmed

SPECIFICATION OF PROPERTY

Given under my hand and seal at this day of

(SEAL) *Tax Recovery Officer*

*Score out portion in italics, if not applicable
†Delete the inappropriate words

FORM No I T C P 19

[See rule 63(2) of the Second Schedule to the Income-tax Act, 1961]

Notice to interested parties to show cause why sale should not be set aside

Office of the Tax Recovery Officer,

To -

.

... . .

Whereas the undermentioned property, **which is included in the property of* (*defaulter*) *by virtue of the Explanation to sub-section (1) of section 222 of the Income-tax Act, 1961,* was sold on the day of in execution of certificate No dated forwarded by the Income-tax Officer, , **to the Tax Recovery Officer,* , *a certified copy of which had been sent by the said Tax Recovery Officer to the undersigned under section 223(2) of the said Act,* for recovery of arrears from (defaulter) ,

And whereas has applied to the undersigned to set aside the sale under rule 60/rule 61/rule 62 of the Second Schedule to the Income-tax Act, 1961,

Take notice that if you have any cause to show why the said application should not be granted, you should appear with your proofs before the undersigned on when the said application will be heard and determined

DESCRIPTION OF PROPERTY

Given under my hand and seal at this day of .

(SEAL) *Tax Recovery Officer*

---

*Score out portion in italics, if not applicable

FORM No I T C P 20

[See rule 65 of the Second Schedule to the Income-tax Act, 1961]

Certificate of sale of immovable property

Office of the Tax Recovery Officer,

.

. .

This is to certify that Shri . has been declared the purchaser at a sale by public auction on the day of . of the undermentioned immovable property, **which is included in the property of* (*defaulter*) *by virtue of the Explanation to sub-section (1) of section 222 of the Income-tax Act, 1961*, in execution of certificate No . . dated forwarded by the Income-tax Officer, , **to the Tax Recovery Officer*, . , *a certified copy of which had been sent by the said Tax Recovery Officer to the undersigned under section 223(2) of the said Act*, for recovery of arrears from . and that the said sale has been duly confirmed by the undersigned and became absolute on the day of .

SPECIFICATION OF PROPERTY

Given under my hand and seal at this day of .

(SEAL) *Tax Recovery Officer*

---

*Score out portion in italics, if not applicable

FORM No I T C P 21

[See rule 66(2) of the Second Schedule to the Income-tax Act, 1961]

Certificate to defaulter authorising him to mortgage, lease or sell property

Office of the Tax Recovery Officer,

. . .

.

*Whereas in execution of certificate No . . .dated forwarded by the Income-tax Officer, .. , for recovery of arrears from . (defaulter) .. , an order was made on the . day of for the sale of the undermentioned property of † .. ;

*Whereas in execution of certificate No dated . forwarded by the Income-tax Officer, , to the Tax Recovery Officer, . , a certified copy of which has been forwarded by the said Tax Recovery Officer to the undersigned under section 223(2) of the Income-tax Act, 1961, for recovery of arrears from . (defaulter) an order was made on the day of for the sale of the undermentioned property of† ,

And the undersigned is satisfied that there is reason to believe that if the sale is postponed the amount of the said certificate may be raised by the said † by mortgage/lease/private sale of the said property or any part thereof and the sale of the undermentioned property has been postponed till the day of .. subject to the terms as mentioned in the order passed by the undersigned on the day of ,

This is to certify that the said † is hereby authorised to make the proposed mortgage/lease/sale within a period of from the date of this certificate. provided that all moneys payable under such mortgage/lease/sale shall be paid, not to the said † , but to the undersigned and provided also that no such mortgage/lease/sale shall become absolute until it has been confirmed by the undersigned

DESCRIPTION OF PROPERTY

Given under my hand and seal at this day of

(SEAL) *Tax Recovery Officer*

---

*Score out whichever paragraph is not applicable
†Fill in the name of the defaulter, and where the property is included in the defaulter's property by virtue of the *Explanation* to sub-section (1) of section 222 of the Income-tax Act, 1961, fill in the name of the person referred to in that *Explanation*

FORM No I T C P 22

[See rule 69 of the Second Schedule to the Income-tax Act, 1961]

Order attaching a business

Office of the Tax Recovery Officer,

.

. . .

To

* .

.. ..

Whereas certificate No .. dated . . for recovery of arrears amounting to Rs . from you/* . (defaulter) has been forwarded by the Income-tax Officer, , †*to the Tax Recovery Officer, , and the said Tax Recovery Officer has sent to the undersigned a certified copy of the said certificate under section 223(2) of the Income-tax Act, 1961,*

It is hereby ordered that the business carried on by you under the name and style of . .. ..at .. ., †*which is included in the defaulter's property by virtue of the Explanation to sub-section (1) of section 222 of the Income-tax Act, 1961*, be and is hereby attached and you are informed accordingly

It is hereby further ordered that you, the abovesaid * . .. . , be, and are hereby, prohibited and restrained from transferring or charging the said business in any way and that all persons whosoever are hereby prohibited and restrained from taking any benefit under such transfer or charge

Given under my hand and seal at.. this . .day of. .....

(SEAL) *Tax Recovery Officer*

---

*Fill in the name of the defaulter, and where the business is included in the defaulter's property by virtue of the *Explanation* to sub-section (1) of section 222 of the Income-tax Act, 1961, fill in the name of the person referred to in that *Explanation*

†Score out portion in italics, if not applicable

FORM No I T C.P 23

[See rule 26 of the Income-tax (Certificate Proceedings) Rules, 1962]

Bond (Sapurdnama)

Statement of Shri ..aged . . , son of Shri.... . , residing at ... .

I have received notice in Form No. I T C P 1 that arrears amounting to Rs . . are due from me in respect of certificate No. .. ... dated forwarded by the Income-tax Officer, ... , **to the Tax Recovery Officer*, *, a certified copy of which has been forwarded by the said Tax Recovery Officer to the Tax Recovery Officer,. . . .. , under section 223(2) of the Income-tax Act, 1961* I offer herewith a sum of Rs . . towards the said arrears Regarding the balance of Rs of the arrears as well as costs, expenses and charges amounting to Rs , I undertake to pay the same in monthly instalments of Rs each payable not later than the . . . day of each month commencing from.. .. Along with each instalment I also undertake to pay the interest payable under section 220(2) of the Income-tax Act, 1961, for the period commencing immediately after the date of issue of the said certificate I undertake not to commit any default in the payment of the instalments. I agree that if I commit any default in paying any one of the instalments within the time aforesaid, the entire amount due from me on the date of the default may be recovered in entirety by such measures as the Tax Recovery Officer, . . , considers necessary I specify herein my assets as on this day and I agree not to sell, give away, transfer, mortgage, or otherwise alienate or encumber these assets in any way until the entire amount due from me is paid to the Tax Recovery Officer, . , in full I agree that in the meanwhile, these assets may continue to remain attached if considered necessary I also agree to furnish two solvent sureties who will execute a surety bond in the form approved by the

Tax Recovery Officer, . , for the due payment by me of the aforesaid dues in instalments as agreed to herein.

DETAILS OF ASSETS AS ON THIS DAY

Before me
(*Signature*)
(*Name*)
(*Designation*)
Date

(*Signature*)
(*Name*)
(SEAL) (*Date*)

---

*Score out portion in italics, if not applicable

FORM No ITCP 24

[See rule 69 or rule 70 of the Second Schedule to the Income-tax Act, 1961]

Appointment of a receiver

Office of the Tax Recovery Officer,
. . .

To

.. . .

Whereas.. , **which is included in the property of* . . .. *by virtue of the Explanation to sub-section (1)*
(*defaulter*)
of section 222 of the Income-tax Act, 1961, has been attached under an order passed by the undersigned under rule 69/rule 70 of the Second Schedule to the Income-tax Act, 1961, in the course of execution of certificate No . dated forwarded by the Income-tax Officer, . ., **to the Tax Recovery Officer, . , a certified copy of which had been sent by the said Tax Recovery Officer to the undersigned under section 223(2) of the said Act*, for recovery of arrears from . ,

You are hereby appointed receiver of the said business/property

Subject to any orders which may be passed by the undersigned in this behalf, you shall have all the powers necessary for the management of the said business/property in accordance with the said Schedule and the rules made thereunder

You are required to render a due and proper account of your receipts and disbursements in respect of the said business/property in accordance with Part VII of the Income-tax (Certificate Proceedings) Rules, 1962

You will be entitled to remuneration at the rate of ... . .

Your appointment as receiver of the said business/property shall continue in force until further orders of the undersigned and may be cancelled or withdrawn at any time at the discretion of the undersigned

Given under my hand and seal at this day of . .

(SEAL) *Tax Recovery Officer*

---

*Score out portion in italics, if not applicable

FORM No ITCP 25

[See rule 73 of the Second Schedule to the Income-tax Act, 1961]

Notice to show cause why a warrant of arrest should not be issued

Office of the Tax Recovery Officer,

. .

.

To

.

Whereas you have failed to pay the amount of arrears specified in certificate No dated forwarded by the Income-tax Officer, , **to the Tax Recovery Officer, . , a certified copy of which has been forwarded by the said Tax Recovery Officer to the undersigned under section 223(2) of the Income-tax Act, 1961*, for recovery of arrears from you and the interest payable under section 220(2) of the Income-tax Act, 1961, for the period commencing immediately after the said date and it is proposed to execute the above certificate by arrest and imprisonment of your person,

You are hereby required to appear before the undersigned on the day of . at A M /P M and to show cause why you should not be committed to the civil prison in execution of the said certificate

Given under my hand and seal at this day of.

(SEAL) *Tax Recovery Officer*

---

*Score out portion in italics, if not applicable

FORM No. ITCP. 26

[See Part V of the Second Schedule to the Income-tax Act, 1961]

Warrant of arrest

Office of the Tax Recovery Officer,

. . . . .

. . . .

To

. .

Whereas certificate No . .dated . was forwarded by the Income-tax Officer, . .. , for recovery of arrears from .. .
(defaulter)

of (address) ,*to the Tax Recovery Officer, . , and *the said Tax Recovery Officer has sent to the undersigned a certified copy of the said certificate under section 223(2) of the Income-tax Act, 1961, specifying that an amount of Rs .. is to be recovered from the defaulter,* and the sum of Rs as noted below is due from the said defaulter in respect of the said certificate —

	Rs	P
†Certificate amount/specified amount		
Costs and charges		
Interest up to the date of issue of this warrant		
Total		

and whereas the said sum of Rs has not been paid in satisfaction of the said certificate,

These are to command you to arrest the said defaulter and bring him before the undersigned as soon as practicable and in any event within 24 hours of his arrest (exclusive of the time required for the journey) unless the defaulter pays to you the said amount of Rs .. together with further interest on Rs at four per cent per annum for the period commencing immediately after the date of issue of this warrant and Rs for the cost of executing this process

You are hereby further commanded to return the warrant on or before the day of. with an endorsement certifying the day on which and the manner in which it has been executed or the reason why it has not been executed In case the defaulter is not found within the jurisdiction of the undersigned, you are hereby authorised to move the Tax Recovery Officer within whose jurisdiction the defaulter may for the time being be found for executing this warrant

Given under my hand and seal at this day of

(SEAL) *Tax Recovery Officer*

*Score out portion in italics, if not applicable
†Delete inappropriate words

FORM No ITCP 27

[See Part V of the Second Schedule to the Income-tax Act, 1961]

Warrant of detention in civil prison

Office of the Tax Recovery Officer,
. ...
.. .

To

The Officer-in-charge of the Civil Prison of .

*Whereas has been brought before the undersigned under a warrant in execution of certificate No . dated forwarded by the Income-tax Officer, . , for recovery of arrears from him,

*Whereas .. . has been brought before the undersigned under a warrant in execution of certificate No dated forwarded by the Income-tax Officer, ., to the Tax Recovery Officer, . , for recovery of arrears from him, a certified copy of which has been forwarded to the undersigned under section 223(2) of the Income-tax Act, 1961, specifying that an amount of Rs . .. is to be recovered from him,

And whereas he has not satisfied the undersigned that he is entitled to be discharged from custody and has not paid the amount due from him as detailed below —

	Rs	P
†Certificate amount/specified amount		
Costs and charges		
Interest .		
Total		

And whereas the undersigned is satisfied that the said . should be committed to the civil prison and an order to that effect has been passed by the undersigned on the day of . . .. .,

You are hereby commanded and required to take and receive the said .. .. .. into the civil prison and to keep him imprisoned therein for a period of or until the amount aforesaid together with further interest on Rs . at four per cent per annum for the period commencing immediately after the date of issue of this warrant payable under section 220(2) of the Income-tax Act, 1961, is paid to you or until you receive an order of release from the undersigned

The undersigned does hereby fix Rs P per diem (calculated under rule 90(2) of the Second Schedule to the said Act) as the rate for subsistence allowance of the said during his confinement under this warrant

Given under my hand and seal at this day of

(SEAL) *Tax Recovery Officer*

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*Score out whichever paragraph is not applicable
†Delete inappropriate words

FORM No I T C P 28

[See rules 77, 78 and 79 of the Second Schedule to the Income-tax Act, 1961]

Order of release

Office of the Tax Recovery Officer,

To

The Officer-in-charge of the Civil Prison of . .

Under orders passed this day, you are hereby directed to forthwith set free . . who is now in your custody as a result of the warrant of detention issued by the undersigned on the day of .

Given under my hand and seal at this day of .

(SEAL) *Tax Recovery Officer*

FORM No I.T.C P 29

[See rule 85 of the Second Schedule to the Income-tax Act, 1961]

Notice to legal representative

Office of the Tax Recovery Officer,

.

To

.

. .

*Whereas certificate No dated has been forwarded by the Income-tax Officer, , for the recovery of arrears amounting to Rs from . (defaulter) ,

*Whereas certificate No dated has been forwarded by the Income-tax Officer, .. . , to the Tax Recovery Officer, . , for the recovery of arrears amounting to Rs . from (defaulter) and the said Tax Recovery Officer has sent to the undersigned on the day of 19 a certified copy of the said certificate under section 223(2) of the Income-tax Act, 1961, specifying that an amount of Rs is to be recovered from the defaulter,

And whereas the said has since died,

You are hereby given notice that steps will be taken under all or any of the provisions of the Second Schedule to the Income-tax Act, 1961, to recover the said amount from you together with the interest payable under section 220(2) of that Act for the period commencing immediately after †the date of issue of the certificate/copy of the certificate and the costs, charges and expenses incurred in respect of warrants and other processes issued and all other proceedings taken for realising the †arrears/specified amount, unless the amount of Rs in respect of the certificate together with costs, charges and expenses incurred so far amounting to Rs and the interest aforesaid is paid by you within fifteen days from the date of service of this notice

(SEAL) *Tax Recovery Officer*

NB—Attention is invited to rule 16 of the Second Schedule to the Income-tax Act, 1961, which is reproduced below —

"16 (1) Where a notice has been served on a defaulter under rule 2, the defaulter or his representative in interest shall not be competent to mortgage, charge, lease or otherwise deal with any property belonging to him except with the permission of the Tax Recovery Officer, nor shall any civil court issue any process against such property in execution of a decree for the payment of money

(2) Where an attachment has been made under this Schedule, any private transfer or delivery of the property attached or of any interest therein and any payment to the defaulter of any debt, dividend or other monies contrary to such attachment, shall be void as against all claims enforceable under the attachment "

*Score out whichever paragraph is not applicable
†Delete inappropriate words

FORM No I T C P. 29A

[See rule 86(1)(*c*) of the Second Schedule to the Income-tax Act, 1961]

Appeal to the Tax Recovery Commissioner

(Designation of the Tax Recovery Commissioner)

No of 19 —19
(To be filled in in the Office of the Tax Recovery Commissioner)

1 Name and address of the appellant
2 G I R No
3 Certificate No
4 Assessment year in connection with which the appeal is preferred (See footnote 4)
5 Tax Recovery Officer passing the order appealed against
6 Rule and sub-rule of the Second Schedule to the Income-tax Act, 1961, under which the Tax Recovery Officer passed the order appealed against
7 Date of the order appealed against
8 Relief claimed in appeal
9 Address to which notices may be sent to the appellant

Signed
Appellant

STATEMENT OF FACTS

GROUNDS OF APPEAL

Signed
Appellant

FORM OF VERIFICATION

I, . , the appellant, do hereby declare that what is stated above is true to the best of my information and belief

Place *Signature*
Date *Status of appellant*

NOTES —1 The form of appeal, grounds of appeal and the form of verification appended thereto shall be signed by a person in accordance with the provisions of rule 55A(2) of the I T C P Rules
2 The form of appeal, statement of facts and the grounds of appeal must be in duplicate
3 If the space provided herein for the statement of facts and grounds of appeal is insufficient, separate enclosures may be used for the purpose
4 Item 4 not to be filled in if the appeal relates to certificate proceedings for the realisation of tax required to be deducted/paid under section 195(1)

FORM No I T C P 30

[See rule 88 of the Second Schedule to the Income-tax Act, 1961]

Notice to surety

Office of the Tax Recovery Officer,

Date

To

Whereas you are a surety for the arrears amounting to Rs due from in respect of certificate No dated forwarded by the Income-tax Officer, , *to the Tax Recovery Officer, , a certified copy of which has been forwarded to the undersigned under section 223(2) of the Income-tax Act, 1961,* and whereas it has become necessary to recover the said arrears from you, you are hereby given notice that steps will be taken under all or any of the provisions of the Second Schedule to the Income-tax Act, 1961, to recover the said amount from you together with the interest payable under section 220(2) of that Act for the period commencing immediately after the said date of issue of the certificate and the costs, charges and expenses incurred in respect of warrants and other processes issued and all other proceedings taken for realising the arrears unless the outstanding amount of Rs in respect of the certificate together with costs, charges and expenses incurred so far amounting to Rs and the interest aforesaid is paid by you within fifteen days from the date of service of this notice

(SEAL) *Tax Recovery Officer*

N B—Attention is invited to rule 16 of the Second Schedule to the Income-tax Act, 1961, which is reproduced below —

"16 (1) Where a notice has been served on a defaulter under rule 2, the defaulter or his representative in interest shall not be competent to mortgage, charge, lease or otherwise deal with any property belonging to him except with the permission of the Tax Recovery Officer, nor shall any civil court issue any process against such property in execution of a decree for the payment of money

(2) Where an attachment has been made under this Schedule, any private transfer or delivery of the property attached or of any interest therein and any payment to the defaulter of any debt, dividend or other monies contrary to such attachment, shall be void as against all claims enforceable under the attachment "

*Score out portion in italics, if not applicable

B

THE INCOME-TAX (REMOVAL OF DIFFICULTIES) ORDER, 1962

(Notification No. S O 2564, dated 8th August 1962)

In exercise of the powers conferred by section 298 of the Income-tax Act, 1961 (XLIII of 1961), the Central Government hereby makes the following Order, namely —

1. Short title.—This Order may be called the Income-tax (Removal of Difficulties) Order, 1962

2. Registration and refund proceedings to be regarded as part of assessment proceedings.—For the purposes of clauses (*a*) and (*b*) of sub-section (2) of section 297 of the Income-tax Act, 1961 (XLIII of 1961) (hereinafter referred to as the repealing Act), proceedings relating to registration of a firm or a claim for refund of tax shall be regarded as a part of the proceedings for the assessment of the person concerned for the relevant assessment year

3. Completion of assessments in cases covered by section 297(2)(b) of the repealing Act.—In cases covered by clause (*b*) of sub-section (2) of section 297 of the repealing Act, the assessments shall be made, *inter alia*, in accordance with the procedure specified in the following sections of the repealing Act, in so far as they may be relevant for this purpose —

Sections 131 to 136, 140 to 146, 153 [except sub-section (2) and clause (*iii*) of sub-section (3)], 156 to 158, 185, 187 to 189, 282 to 284 and 288.

4. Appeal, reference or revision proceedings in respect of orders passed under the repealed Act.—(1) Proceedings by way of the first or subsequent appeals, reference or revision in respect of any order made under the Indian Income-tax Act, 1922 (XI of 1922) (hereinafter referred to as the repealed Act), shall be instituted and disposed of as if the repealing Act had not been passed

(2) Any such proceeding instituted under the repealing Act after the 31st day of March, 1962, and before the date of this Order shall be deemed to have been instituted under the repealed Act and shall be disposed of as if the repealing Act had not been passed

Provided that if any such proceeding has been disposed of before the date of this Order under any provision of the repealing Act, it shall be deemed to have been disposed of under the corresponding provision of the repealed Act and any appeal, reference or revision in respect of the proceeding so disposed of shall be instituted and disposed of as if the repealing Act had not been passed.

THE INCOME-TAX (REMOVAL OF DIFFICULTIES) ORDER NO. 2 OF 1963

(Notification No S O 1659, dated 11th June 1963)

In exercise of the powers conferred by section 298 of the Income-tax Act, 1961 (XLIII of 1961), the Central Government hereby makes the following Order, namely —

1. Short title and commencement.—(1) This Order may be called the Income-tax (Removal of Difficulties) Order No 2 of 1963

(2) It shall be deemed to have come into force on the 1st day of April, 1962

2. Applicability of section 273 of Act XLIII of 1961 in certain cases.—Where in respect of the financial year commencing on the 1st day of April, 1961, an assessee has furnished an estimate of the tax payable by him under sub-section (2) or sub-section (3) of section 18A of the Indian Income-tax Act, 1922 (XI of 1922) (hereinafter referred to as the repealed Act), which he knew or had reason to believe to be untrue, or where he has without reasonable cause failed to furnish an estimate of the tax payable by him under sub-section (3) of section 18A of the repealed Act in respect of the said financial year, the provisions of section 273 of the Income-tax Act, 1961 (XLIII of 1961), shall apply as if the references in that section to the provisions of section 212, Chapter XVII-C, section 215, section 210 and section 217 were, so far as may be, references to the corresponding provisions of section 18A of the repealed Act

C

THE INCOME-TAX (DETERMINATION OF EXPORT PROFITS) RULES, 1962

(*Notification No S O 2738, dated 1st September 1962*)

In exercise of the powers conferred by clause (*ii*) of sub-section (5) of section 2 of the Finance (No 2) Act, 1962 (XX of 1962), the Central Board of Revenue hereby makes the following rules, namely —

1. Short title.—These rules may be called the Income-tax (Determination of Export Profits) Rules, 1962

2. Computation of qualifying income.—(1) Where an assessee referred to in clause (*i*) of sub-section (5) of section 2 of the Finance (No 2) Act, 1962 (XX of 1962), carries on any business of exporting goods or merchandise out of India, the amount of the profits and gains of such business with reference to which deduction of tax is admissible under that sub-section (hereinafter referred to as the qualifying income) shall be computed in accordance with the provisions of sub-rule (2) or sub-rule (3) or sub-rule (4) of this rule, as the case may be

(2) Where in the opinion of the Income-tax Officer it is possible to ascertain the profits and gains on such exports, the amount of qualifying income shall be taken as the excess of the amount of the profits and gains so ascertained in accordance with the provisions of the Income-tax Act, 1961 (XLIII of 1961) (hereinafter referred to as the Act), and included in the total income over the aggregate of the amount of any portion thereof on which income-tax or super-tax is not payable and the amount in respect of which a deduction of income-tax or super-tax has been granted under any provision of the Act

(3) Where in the opinion of the Income-tax Officer the profits and gains on such exports cannot be ascertained, the amount of qualifying income shall be taken as a fraction of the profits and gains of the whole business of which such exports form a part and included in the total income (as reduced by the aggregate of the amount of any portion thereof on which income-tax or super-tax is not payable and the amount in respect of which a deduction of income-tax or super-tax has been granted under any provision of the Act), the fraction being proportional to the value of the turnover of such exports in relation to the total turnover of the business of which such exports form a part

(4) Where in the opinion of the Income-tax Officer the computation of such profits and gains in the manner indicated in sub-rule (3) presents exceptional difficulties, the amount of qualifying income shall be taken as the excess of such profits and gains ascertained by the Income-tax Officer on any other reasonable basis on the data available and included in the total income over the aggregate of the amount of any portion thereof on which income-tax or super-tax is not payable and the amount in respect of which a deduction of income-tax or super-tax has been granted under any provision of the Act

THE INCOME-TAX (DETERMINATION OF EXPORT PROFITS) RULES, 1963

(*Notification No S O 1981, dated 9th July 1963*)

In exercise of the powers conferred by clause (*vi*) of sub-section (5) of section 2 of the Finance Act, 1963 (XIII of 1963), the Central Board of Revenue hereby makes the following rules, namely —

1. Short title.—These rules may be called the Income-tax (Determination of Export Profits) Rules, 1963

2. Computation of qualifying income.—(1) Where an assessee referred to in clause (*i*) of sub-section (5) of section 2 of the Finance Act, 1963 (XIII of 1963), exports any goods or merchandise out of India, the amount of the profits and gains derived from such exports with reference to which deduction of tax is admissible under that sub-section (hereinafter referred to as the qualifying income) shall be computed in accordance with the provisions of sub-rule (2) or sub-rule (3) or sub-rule (4) of this rule, as the case may be

(2) Where in the opinion of the Income-tax Officer it is possible to ascertain the profits and gains on such exports, the amount of the qualifying income shall be taken as the excess of the amount of the profits and gains so ascertained in accordance with the provisions of the Income-tax Act, 1961 (XLIII of 1961) (hereinafter referred to as the Act), and included in the total income over the aggregate of the amount of any portion thereof on which income-tax or super-tax is not payable and the amount in respect of which a deduction of income-tax or super-tax has been granted under any of the provisions of the Act

(3) Where in the opinion of the Income-tax Officer the profits and gains on such exports cannot be ascertained, the amount of the qualifying income shall be taken as a fraction of the profits and gains of the whole business of which such exports form a part and included in the total income (as reduced by the aggregate of the amount of any portion thereof on which income-tax and super-tax is not payable and the amount in respect of which a deduction of income-tax or super-tax has been granted under any of the provisions of the Act), the fraction being proportional to the value of the turnover of such exports in relation to the total turnover of the business of which such exports form a part

(4) Where in the opinion of the Income-tax Officer the computation of such profits and gains in the manner indicated in sub-rule (3) presents exceptional difficulties, the amount of the qualifying income shall be taken as the excess of such profits and gains ascertained by the Income-tax Officer on any other reasonable basis on the data available and included in the total income over the aggregate of the amount of any portion thereof on which income-tax or super-tax is not payable and the amount in respect of which a deduction of income-tax or super-tax has been granted under any of the provisions of the Act

THE INCOME-TAX (DETERMINATION OF EXPORT PROFITS) RULES, 1964

(*Notification No S O 2663, dated 29th July 1964*)

In exercise of the powers conferred by clause (*d*) of sub-section (5) of section 2 of the Finance Act, 1964 (V of 1964), the Central Board of Direct Taxes hereby makes the following rules, namely —

1. Short title.—These rules may be called the Income-tax (Determination of Export Profits) Rules, 1964

2. Computation of qualifying income.—(1) Where the total income of an assessee referred to in sub-clause (*i*) of clause (*a*) of sub-section (5) of section 2 of the Finance Act, 1964 (V of 1964), includes any profits and gains derived from the export of any goods or merchandise out of India, the amount of such profits and gains in respect of which deduction of income-tax and super-tax is admissible under that sub-clause (hereinafter referred to as the qualifying income) shall be computed in accordance with the provisions of sub-rule (2) or sub-rule (3) or sub-rule (4) of this rule, as the case may be

(2) Where in the opinion of the Income-tax Officer it is possible to ascertain the profits and gains on such exports, the qualifying income shall be taken to be the amount by which the profits and gains so ascertained in accordance with the provisions of the Income-tax Act, 1961 (XLIII of 1961) (hereinafter referred to as the Act), and included in the total income exceed the aggregate of the amount of any portion thereof on which income-tax or super-tax is not payable and the amount in respect of which a deduction of income-tax or super-tax has been granted under any of the provisions of the Act

(3) Where in the opinion of the Income-tax Officer the profits and gains on such exports cannot be ascertained the qualifying income shall be taken to be the amount which bears to the profits and gains of the whole business of which such exports form a part and included in the total income (as reduced by the aggregate of the amount of any portion thereof on which income-tax and super-tax is not payable and the amount in respect of which a deduction of income-tax or super-tax has been granted under any of the provisions of the Act), the same proportion as the value of the turnover in respect of such exports bears to the turnover of the business of which such exports form a part

(4) Where in the opinion of the Income-tax Officer a computation of such profits and gains in the manner specified in sub-rule (3) presents exceptional difficulties, the qualifying income shall be taken to be the amount by which such profits and gains as ascertained by the Income-tax Officer on any other reasonable basis on the data available and included in the total income exceed the aggregate of the amount of any portion thereof on which income-tax or super-tax is not payable and the amount in respect of which a deduction of income-tax and super-tax has been granted under any of the provisions of the Act

THE INCOME-TAX (DETERMINATION OF EXPORT PROFITS) RULES, 1965

(*Notification No S O 2214, dated 7th July 1965*)

In exercise of the powers conferred by clause (*d*) of sub-section (5) of section 2 of the Finance Act, 1965 (X of 1965), the Central Board of Direct Taxes hereby makes the following rules, namely —

1. Short title.—These rules may be called the Income-tax (Determination of Export Profits) Rules, 1965.

2. Computation of qualifying income.—(1) Where the total income of an assessee referred to in sub-clause (*i*) of clause (*a*) of sub-section (5) of section 2 of the Finance Act, 1965 (X of 1965), includes any profits and gains derived from the export of any goods or merchandise out of India, the amount of such profits and gains in respect of which deduction of income-tax is admissible under that sub-clause (hereinafter referred to as the qualifying income) shall be computed in accordance with the provisions of sub-rule (2) or sub-rule (3) or sub-rule (4) of this rule, as the case may be

(2) Where in the opinion of the Income-tax Officer it is possible to ascertain the profits and gains on such exports, the qualifying income shall be taken to be the amount by which the profits and gains so ascertained in accordance with the provisions of the Income-tax Act, 1961 (XLIII of 1961) (hereinafter referred to as the Act), and included in the total income exceed the aggregate of the amount of any portion thereof on which income-tax is not payable and the amount in respect of which a deduction of income-tax has been granted under any of the provisions of the Act

(3) Where in the opinion of the Income-tax Officer the profits and gains on such exports cannot be ascertained, the qualifying income shall be taken to be the amount

which bears to the profits and gains of the whole business of which such exports form a part and included in the total income (as reduced by the aggregate of the amount of any portion thereof on which income-tax is not payable and the amount in respect of which a deduction of income-tax has been granted under any of the provisions of the Act), the same proportion as the value of the turnover in respect of such exports bears to the turnover of the business of which such exports form a part

(4) Where in the opinion of the Income-tax Officer a computation of such profits and gains in the manner specified in sub-rule (3) presents exceptional difficulties, the qualifying income shall be taken to be the amount by which such profits and gains as ascertained by the Income-tax Officer on any other reasonable basis on the data available and included in the total income exceed the aggregate of the amount of any portion thereof on which income-tax is not payable and the amount in respect of which a deduction of income-tax has been granted under any of the provisions of the Act

THE INCOME-TAX (DETERMINATION OF EXPORT PROFITS) RULES, 1966

(*Notification No S O 2080, dated 11th July 1966*)

In exercise of the powers conferred by clause (*d*) of sub-section (5) of section 2 of the Finance Act, 1966 (XIII of 1966), the Central Board of Direct Taxes hereby makes the following rules, namely —

1. Short title.—These rules may be called the Income-tax (Determination of Export Profits) Rules, 1966

2. Computation of qualifying income.—(1) Where the total income of an assessee referred to in sub-clause (*i*) of clause (*a*) of sub-section (5) of section 2 of the Finance Act, 1966 (XIII of 1966), includes any profits and gains derived from the export of any goods or merchandise out of India, the amount of such profits and gains in respect of which deduction of income-tax is admissible under that sub-clause (hereinafter referred to as the qualifying income) shall be computed in accordance with the provisions of sub-rule (2) or sub-rule (3) or sub-rule (4) of this rule, as the case may be

(2) Where in the opinion of the Income-tax Officer it is possible to ascertain the profits and gains on such exports, the qualifying income shall be taken to be the amount by which the profits and gains so ascertained in accordance with the provisions of the Income-tax Act, 1961 (XLIII of 1961) (hereinafter referred to as the Act), and included in the total income exceed the aggregate of the amount of any portion thereof on which income-tax is not payable and the amount in respect of which a deduction of income-tax has been granted under any of the provisions of the Act

(3) Where in the opinion of the Income-tax Officer the profits and gains on such exports cannot be ascertained, the qualifying income shall be taken to be the amount which bears to the profits and gains of the whole business of which such exports form a part and included in the total income (as reduced by the aggregate of the amount of any portion thereof on which income-tax is not payable and the amount in respect of which a deduction of income-tax has been granted under any of the provisions of the Act), the same proportion as the value of the turnover in respect of such exports bears to the turnover of the business of which such exports form a part

(4) Where in the opinion of the Income-tax Officer a computation of such profits and gains in the manner specified in sub-rule (3) presents exceptional difficulties, the qualifying income shall be taken to be the amount by which such profits and gains as ascertained by the Income-tax Officer on any other reasonable basis on

the data available and included in the total income exceed the aggregate of the amount of any portion thereof on which income-tax is not payable and the amount in respect of which a deduction of income-tax has been granted under any of the provisions of the Act

THE INCOME-TAX (DETERMINATION OF EXPORT PROFITS) (NO. 2) RULES, 1967

(Notification No. S O 3408, dated 18th September 1967)

In exercise of the powers conferred by clause (*d*) of sub-section (4) of section 2 of the Finance (No 2) Act, 1967 (XX of 1967), and in supersession of the Income-tax (Determination of Export Profits) Rules, 1967, published with the Notification of the Government of India in the Ministry of Finance, Central Board of Direct Taxes, No S O 2382 dated the 15th July, 1967, in the Gazette of India Extraordinary Part II—Section 3(*ii*) dated the 15th July, 1967, the Central Board of Direct Taxes hereby makes the following rules, namely —

1. Short title and commencement.—(1) These rules may be called the Income-tax (Determination of Export Profits) (No 2) Rules, 1967.

(2) These rules shall be deemed to have come into force on the 1st day of April, 1967

2. Computation of qualifying income.—(1) Where the total income of an assessee referred to in sub-clause (*i*) of clause (*a*) of sub-section (4) of section 2 of the Finance (No 2) Act, 1967 (XX of 1967), includes any profits and gains derived from the export, made before the 6th day of June, 1966, of any goods or merchandise out of India, the amount of such profits and gains in respect of which deduction of income-tax is admissible under the said sub-clause (such profits and gains being hereafter referred to as the qualifying income) shall be computed in accordance with the provisions of sub-rule (2) or sub-rule (3) or sub-rule (4), as the case may be

(2) Where in the opinion of the Income-tax Officer it is possible to ascertain the profits and gains on such exports, the qualifying income shall be taken to be the amount by which the profits and gains so ascertained in accordance with the provisions of the Income-tax Act, 1961 (XLIII of 1961) (hereinafter referred to as the Act), and included in the total income exceed the aggregate of the amount of any portion thereof on which income-tax is not payable and the amount in respect of which a deduction of income-tax has been granted under any of the provisions of the Act

(3) Where in the opinion of the Income-tax Officer it is not possible to ascertain the profits and gains on such exports, the qualifying income shall be taken to be the amount which bears to the profits and gains of the whole business of which such exports form a part and included in the total income (as reduced by the aggregate of the amount of any portion thereof on which income-tax is not payable and the amount in respect of which a deduction of income-tax has been granted under any of the provisions of the Act), the same proportion as the value of the turnover in respect of such exports bears to the turnover of the business of which such exports form a part

(4) Where in the opinion of the Income-tax Officer a computation of such profits and gains in the manner specified in sub-rule (3) presents exceptional difficulties, the qualifying income shall be taken to be the amount by which such profits and gains as ascertained by the Income-tax Officer on any other reasonable basis on the data available and included in the total income exceed the aggregate of the amount of any portion thereof on which income-tax is not payable and the amount in respect of which a deduction of income-tax has been granted under any of the provisions of the Act

D

LAWS RELATING TO UNION TERRITORIES

THE TAXATION LAWS (EXTENSION TO UNION TERRITORIES) REGULATION, 1963

(REGULATION NO III OF 1963)

A Regulation to extend certain laws relating to taxation to the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry and for matters connected therewith

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him —

1. Short title and commencement.—(1) This Regulation may be called the Taxation Laws (Extension to Union Territories) Regulation, 1963

(2) It shall come into force on the 1st day of April, 1963

2. Definitions.—In this Regulation, unless the context otherwise requires,—

(*a*) "Act" means an Act specified in the Schedule,

(*b*) "Union territory" means any of the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry

3. Extension with amendments of certain taxation laws to the Union territories and their commencement therein.—(1) The Acts specified in Part I of the Schedule shall extend to, and come into force in, each of the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry on the 1st day of April, 1963, subject to the modifications, if any, specified in that Part

(2) The Acts specified in Part II of the Schedule shall extend to, and come into force in, the Union territories of Goa, Daman and Diu, and Pondicherry on the 1st day of April, 1963, and shall, in their application to those territories and the Union territory of Dadra and Nagar Haveli, be subject to the modifications, if any, specified in that Part

(3) Any reference in the provisions of any Act referred to in sub-section (1) or sub-section (2) to the commencement thereof shall, in relation to a Union territory, be construed as a reference to the 1st day of April, 1963

4. Repeal and savings.—(1) Any law in force in a Union territory corresponding to any Act specified in the Schedule shall stand repealed on the 1st day of April, 1963.

(2) Notwithstanding the repeal by sub-section (1) of any law referred to therein, that law shall continue to have effect in the Union territory for the purposes of the levy, assessment and collection of any tax or duty leviable under such law before the 1st day of April, 1963, except in so far as the income (including profits and gains) or property in respect of which such tax or duty is leviable is liable to assessment under any Act specified in the Schedule for the assessment year commencing on the 1st day of April, 1963, or for any subsequent year, and for any other purpose whatsoever connected with or incidental to such lev[illegible] sment and collection

Provided that any reference in [illegible] to an officer, authority, tribunal or court shall be construed as a refe[illegible] sponding officer, authority, trib[illegible]

or court appointed or constituted by or under the corresponding Act specified in the Schedule and if any question arises as to who the corresponding officer, authority, tribunal or court is, the decision of the Central Government thereon shall be final

(3) Without prejudice to the provisions contained in sub-section (2), section 6 of the General Clauses Act, 1897 (X of 1897), shall apply in relation to the repeal of any law referred to in sub-section (1) as if the law so repealed had been an enactment within the meaning of section 6 of that Act

5. **Extension of rules, orders, etc.**—All rules, notifications and orders made or issued under the provisions of any Act shall, in so far as they do not extend to, and are not in force in, a Union territory immediately before the 1st day of April, 1963, extend to, and come into force in, that Union territory as from that date

6. **Rules of construction.**—(1) In any Act or in any of the rules, notifications or orders made or issued thereunder, any reference to any provision of law not in force or to any functionary not in existence in a Union territory shall be construed as a reference to the corresponding law in force or to the corresponding functionary in existence in that Union territory

Provided that—

(*i*) if any question arises as to who such functionary is, or

(*ii*) *if there is no such corresponding functionary,*

the Central Government shall decide as to who such functionary will be and its decision shall be final

(2) For the purpose of facilitating the application in relation to a Union territory of any Act or any rule, notification or order made or issued thereunder, any court or other authority may construe it in such manner, not affecting the substance, as may be necessary or proper to adapt it to the matter before the court or other authority

7. **Power to remove difficulties.**—If any difficulty arises in giving effect in any Union territory to the provisions of any Act, or of any rule, notification or order made or issued thereunder, the Central Government may, by general or special order published in the Official Gazette, make such provisions or give such directions as appear to it to be expedient or necessary for the removal of the difficulty

THE SCHEDULE

PART I

[See section 3(1)]

Year 1	No 2	Short title 3	Modifications 4
1926	III	The Government Trading Taxation Act, 1926	
1949	XXII	The Payment of Taxes (Transfer of Property) Act, 1949	

Year 1	No 2	Short title 3	Modifications 4
1953	XXXIV	The Estate Duty Act, 1953	In section 2, after clause (*9*), insert— '(*9A*) "High Court", in relation to the Union territories of Dadra and Nagar Haveli and Goa, Daman and Diu, means the High Court at Bombay,' In clause (*d*) of sub-section (1) of section 3, insert at the end— "and as if the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry had always been part of India" In sub-section (1) of section 5, after the words "First Schedule to this Act", insert "and in the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry"
1957	XXVII	The Wealth-tax Act, 1957	In section 2— (*i*) in clause (*h*), omit the word "and" at the end of sub-clause (*i*) and after sub-clause (*ii*), insert— "(*iii*) a company within the meaning of any law relating to companies for the time being in force in the Union territory of Dadra and Nagar Haveli, Goa, Daman and Diu, or Pondicherry and any association in any such Union territory, whether incorporated or not, which is declared by general or special order of the Board to be a company for the purposes of this Act,", (*ii*) after clause (*i*), insert— '(*i-a*) "High Court", in relation to the Union territories of Dadra and Nagar Haveli and Goa, Daman and Diu, means the High Court at Bombay,', (*iii*) after clause (*k*), insert— '(*k-a*) "India" shall be deemed to include the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry— (*i*) as respects any period, for the purposes of section 6, and (*ii*) as respects any period included in the year ending with the valuation date, for the purpose of making any assessment for the assessment year commencing on the 1st day of April, 1963, or for any subsequent year,' In section 4, after sub-section (4), insert— "(4A) Notwithstanding anything in sub-section (4), nothing contained in clause (*a*) of sub-section (1) shall apply to any such transfer as is referred to therein made before the 1st day of April, 1963, by an individual who but for the extension of this Act to the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry, would not have been an assessee, and the value of any assets so transferred shall not be included in the computation of his net wealth " In section 44, after the words "or a legal practitioner or a chartered accountant", insert "or any person who before the coming into force of this Act in the Union territory of Dadra and Nagar Haveli, Goa, Daman and Diu, or Pondicherry attended before an Income-tax authority in the said territory on behalf of any assessee

Year 1	No 2	Short title 3	Modifications 4
			otherwise than in the capacity of an employee or relative of that assessee" After section 46, insert— "*46A Power to make exemption, etc, in relation to certain Union territories*—If the Central Government considers it necessary or expedient so to do for avoiding any hardship or anomaly or removing any difficulty that may arise as a result of the application of this Act to the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry, or in the case of the Union territory of Pondicherry, for implementing any provision of the Treaty of Cession concluded between France and India on the 28th day of May, 1956, that Government may, by general or special order, make an exemption, reduction in rate or other modification in respect of wealth-tax in favour of any class of assets or in regard to the whole or any part of the net wealth of any assessee or class of assessees Provided that the power conferred by this section shall not be exercisable after the 31st day of March, 1967, except for the purpose of rescinding an exemption, reduction or modification already made"
1958	XVIII	The Gift-tax Act, 1958	In section 2— (*i*) for clause (*vii*), substitute— '(*vii*) "company" means a company as defined in section 3 of the Companies Act, 1956, and includes— (*a*) a foreign company within the meaning of section 591 of that Act, and (*b*) a company within the meaning of any law relating to companies for the time being in force in the Union territory of Dadra and Nagar Haveli, Goa, Daman and Diu, or Pondicherry and any association in any such Union territory whether incorporated or not which is declared by general or special order of the Board to be a company for the purposes of this Act,', (*ii*) after clause (*xxiii*), insert— "(*xxiii-a*) territories to which this Act extends shall be deemed to include the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry— (*a*) as respects any period for the purposes of section 5, and (*b*) as respects any period included in the previous year, for the purposes of making any assessment for the assessment year commencing on the 1st day of April, 1963, or for any subsequent year,". In section 28B, after clause (*v*), insert— "(*vi*) in relation to the Union territories of Dadra and Nagar Haveli and Goa, Daman and Diu, the High Court at Bombay, (*vii*) in relation to the Union territory of Pondicherry, the High Court at Madras"

Year 1	No 2	Short title 3	Modifications 4
			After section 46, insert— "*46A Power to make exemption, etc, in relation to certain Union territories*—If the Central Government considers it necessary or expedient so to do for avoiding any hardship or anomaly or removing any difficulty that may arise as a result of the application of this Act to the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry, or in the case of the Union territory of Pondicherry, for implementing any provision of the Treaty of Cession concluded between France and India on the 28th day of May, 1956, the Central Government may, by general or special order, make an exemption, reduction in rate or other modification in respect of gift-tax in favour of any class of gifts or in regard to the whole or any part of the gifts made by any assessee or class of assessees Provided that the power conferred by this section shall not be exercisable after the 31st day of March, 1967, except for the purpose of rescinding an exemption, reduction or modification already made"
			PART II [See section 3(2)]
1961	XLIII	The Income-tax Act, 1961	In section 2— (*i*) after clause (*25*), insert— '(*25A*) "India" shall be deemed to include the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry,— (*a*) as respects any period, for the purposes of section 6, and (*b*) as respects any period included in the previous year, for the purposes of making any assessment for the assessment year commencing on the 1st day of April, 1963, or for any subsequent year,', (*ii*) in clause (*26*)— (*a*) in sub-clause (*i*), for the brackets and words "(other than the State of Jammu and Kashmir)", substitute "(other than the State of Jammu and Kashmir and the Union territories specified in sub-clause (*iii*) of this clause)", (*b*) after sub-clause (*ii*), insert— "(*iii*) in the case of any of the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry, a company formed and registered under any law for the time being in force in that Union territory," In section 269, omit the word "and" at the end of clause (*iv*) and after clause (*v*), insert— "(*vi*) in relation to the Union territories of Dadra and Nagar Haveli and Goa, Daman and Diu, the High Court at Bombay, and (*vii*) in relation to the Union territory of Pondicherry, the High Court at Madras"

Year 1	No 2	Short title 3	Modifications 4
			In section 288, in sub-section (2), after clause (*vi*), insert— "(*vi-a*) any person who, before the coming into force of this Act in the Union territory of Dadra and Nagar Haveli, Goa, Daman and Diu, or Pondicherry, attended before an Income-tax authority in the said territory on behalf of any assessee otherwise than in the capacity of an employee or relative of that assessee, or" After section 294, insert— "*294A Power to make exemption, etc , in relation to certain Union territories*—If the Central Government considers it necessary or expedient so to do for avoiding any hardship or anomaly or removing any difficulty that may arise as a result of the application of this Act to the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry, or in the case of the Union territory of Pondicherry, for implementing any provision of the Treaty of Cession concluded between France and India on the 28th day of May, 1956, that Government may, by general or special order, make an exemption, reduction in rate or other modification in respect of income-tax or super-tax in favour of any assessee or class of assessees or in regard to the whole or any part of the income of any assessee or class of assessees Provided that the power conferred by this section shall not be exercisable after the 31st day of March, 1967, except for the purpose of rescinding an exemption, reduction or modification already made "
1961	XLVI	The Voluntary Surrender of Salaries (Exemption from Taxation) Act, 1961	

THE TAXATION LAWS (EXTENSION TO UNION TERRITORIES) (REMOVAL OF DIFFICULTIES) ORDER, 1970

(*Notification No S O 142, dated 7th January 1970*)

Whereas certain difficulties have arisen in giving effect to the provisions of the Income-tax Act, 1961 (XLIII of 1961), in the Union territories of Dadra and Nagar Haveli and Goa, Daman and Diu,

Now, therefore, in exercise of the powers conferred by section 7 of the Taxation Laws (Extension to Union Territories) Regulation, 1963 (III of 1963), the Central Government hereby makes the following Order, namely —

1. **Short title.**—This Order may be called the Taxation Laws (Extension to Union Territories) (Removal of Difficulties) Order, 1970

2 **Rebate or deduction in respect of life insurance premia, etc.**—(1) In making an assessment under the Income-tax Act, 1961 (XLIII of 1961) (hereinafter referred to as the Income-tax Act), the following provisions shall apply in the case of an assessee, being an association of persons or a body of individuals consisting only of a husband and wife governed by the system of community of property in force

in the Union territories of Dadra and Nagar Haveli and Goa, Daman and Diu, namely —

(*a*) where the assessment relates to the assessment year commencing on the 1st day of April, 1963, or the 1st day of April, 1964, the provisions of section 87 of the Income-tax Act, as that section stood before it was repealed by Act XX of 1967, shall be deemed to have applied in relation to the sums specified in sub-paragraph (2) of this paragraph in the same manner as they had applied in relation to the sums referred to in sub-clause (*i*) or sub-clause (*ii*) of clause (*a*), or clause (*f*), of sub-section (1) of that section in the case of an individual,

(*b*) where the assessment relates to the assessment year commencing on the 1st day of April, 1964, the provisions of section 99A of the Income-tax Act, as that section stood before it was repealed by Act X of 1965, shall be deemed to have applied in relation to the sums specified in sub-paragraph (2) of this paragraph in the same manner as they applied in relation to the sums referred to in sub-clause (*i*) or sub-clause (*ii*) of clause (*a*), or clause (*f*), of sub-section (1) of section 87 of the Income-tax Act, as that section stood before it was repealed by Act XX of 1967, in the case of an individual,

(*c*) where the assessment relates to the assessment year commencing on the 1st day of April, 1965, the 1st day of April, 1966, or the 1st day of April, 1967, the provisions of section 80A of the Income-tax Act, as that section stood at the relevant time, shall be deemed to have applied in relation to the sums specified in sub-paragraph (2) of this paragraph in the same manner as they had applied in relation to the sums referred to in sub-clause (*i*) or sub-clause (*ii*) of clause (*a*), or clause (*f*), of sub-section (2) of that section in the case of an individual,

(*d*) where the assessment relates to the assessment year commencing on the 1st day of April, 1968, or the 1st day of April, 1969, or the 1st day of April, 1970, the provisions of section 80C of the Income-tax Act shall apply in relation to the sums specified in sub-paragraph (2) of this paragraph, in the same manner as they apply in relation to the sums referred to in sub-clause (*i*) or sub-clause (*ii*) or sub-clause (*iv*) of clause (*a*), or clause (*f*), of sub-section (2) of that section in the case of an individual

(2) The sums referred to in sub-paragraph (1) of this paragraph shall be the following, namely —

(*a*) any sums paid in the previous year by the assessee, being an association of persons or body of individuals referred to in that sub-paragraph, out of its income chargeable to tax—

(*i*) to effect or to keep in force an insurance on the life of any member of such association or body, and, where the assessment relates to the assessment year commencing on the 1st day of April, 1970, also the sums paid to effect or to keep in force an insurance on the life of any child of any of the members of such association or body, or

(*ii*) to effect or to keep in force a contract for a deferred annuity on the life of any member of such association or body and, where the assessment relates to the assessment year commencing on the 1st day of April, 1970, also the sums paid to effect or to keep in force a contract for a deferred annuity on the life of any child of any of the members of such association or body, or

(*iii*) where the assessment relates to the assessment year commencing on the 1st day of April, 1969, or the 1st day of April, 1970, as a contribution to any provident fund set up by the Central Government and notified by it in the Official Gazette for the purposes of sub-clause (*iv*) of clause (*a*) of sub-section (2) of section 80C of the Income-tax Act,

(*b*) any sums deposited, in the previous year by such association or body out of its income chargeable to tax, in a ten-year account or a fifteen-year account under the Post Office Saving Bank (Cumulative Time Deposits) Rules, 1959, as amended from time to time.

THE TAXATION LAWS (EXTENSION TO UNION TERRITORIES) (REMOVAL OF DIFFICULTIES) ORDER NO. 2 OF 1970

(*Notification No S O 3770, dated 18th November 1970*)

Whereas certain difficulties have arisen in giving effect to the provisions of the Income-tax Act, 1961 (XLIII of 1961), in the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu and Pondicherry,

Now, therefore, in exercise of the powers conferred by section 7 of the Taxation Laws (Extension to Union Territories) Regulation, 1963 (III of 1963), the Central Government hereby makes the following Order, namely —

1. Short title and commencement.—(1) This Order may be called the Taxation Laws (Extension to Union Territories) (Removal of Difficulties) Order No 2 of 1970

(2) It shall be deemed to have come into force on the 1st day of April, 1963

2. Computation of aggregate depreciation allowable and written down value.—In making any assessment under the Income-tax Act, 1961 (XLIII of 1961), all depreciation actually allowed under the local laws shall be taken into account in computing the aggregate of all deductions in respect of depreciation referred to in clause (*i*) of sub-section (2) of section 34 and the written down value under sub-clause (*b*) of clause (*6*) of section 43 of the said Act

Provided that where in respect of any asset, depreciation has been allowed for any year both in the assessment made under the local law and in the assessment made under the Income-tax Act, 1961, or under the Indian Income-tax Act, 1922, or any Act repealed by that Act, or under the Indian Income-tax Act, 1886, the greater of the two sums allowed shall only be taken into account:

Provided further that where in respect of any period, no depreciation was actually allowed under the local law or the depreciation actually allowed cannot be ascertained, depreciation in respect of that period shall be calculated at the rate for the time being in force under the Income-tax Act, 1961, or under the Indian Income-tax Act, 1922, or any Act repealed by that Act or under any executive orders, issued when the Indian Income-tax Act, 1886, was in force, as the case may be, and the depreciation so calculated shall be deemed to be the depreciation actually allowed under the local law

Explanation —For the purposes of this paragraph, "local law" means—

(*i*) in relation to the Union territory of Dadra and Nagar Haveli, any law relating to income-tax or super-tax other than the Income-tax Act, 1961, in force in that territory immediately before the 1st day of April, 1963; and

(*ii*) in relation to the Union territories of Goa, Daman and Diu and Pondicherry, any law relating to income-tax or super-tax in force in the Union territory concerned immediately before the 1st day of April, 1963.

THE DADRA AND NAGAR HAVELI AND GOA, DAMAN AND DIU (TAXATION CONCESSIONS) ORDER, 1964

(*Notification No S O 659, dated 20th February 1964*)

In exercise of the powers conferred by section 294A of the Income-tax Act, 1961 (XLIII of 1961), section 25 of the Super Profits Tax Act, 1963 (XIV of 1963), section 46A of the Wealth-tax Act, 1957 (XXVII of 1957), sub-section (2) of section 33 of the Estate Duty Act, 1953 (XXXIV of 1953), and section 46A of the Gift-tax Act, 1958 (XVIII of 1958), the Central Government hereby makes the exemptions, reductions in rate and the modifications specified in this Order

1. Short title.—This Order may be called the Dadra and Nagar Haveli and Goa, Daman and Diu (Taxation Concessions) Order, 1964

2. Definitions.—(1) In this Order, unless the context otherwise requires—

(*a*) "appointed day" means—

(*i*) in relation to Dadra and Nagar Haveli, the 11th day of August, 1961; and

(*ii*) in relation to Goa, Daman and Diu, the 20th day of December, 1961;

(*b*) "Dadra and Nagar Haveli" means the Union territory of Dadra and Nagar Haveli,

(*c*) "Goa, Daman and Diu" means the Union territory of Goa, Daman and Diu,

(*d*) "Local law" means—

(*i*) in relation to Dadra and Nagar Haveli, any law relating to income-tax or super-tax other than the Income-tax Act, 1961, in force in Dadra and Nagar Haveli immediately before the 1st day of April, 1963; and

(*ii*) in relation to Goa, Daman and Diu, any law relating to income-tax or super-tax in force in Goa, Daman and Diu immediately before the 1st day of April, 1963,

(*e*) "Local rate of tax" means the rate determined by dividing the amount of income-tax and super-tax payable on the total income (including agricultural income) under the Local law according to the rates of tax in force in Dadra and Nagar Haveli or Goa, Daman and Diu, as the case may be, immediately before the 1st day of April, 1963, by the amount of such total income,

(*f*) "Indian rate of tax" means the rate determined by dividing the amount of income-tax and super-tax payable in India on the total income in respect of the relevant previous year under the provisions of the Income-tax Act, 1961, by the amount of such total income,

(*g*) "Union territories" means the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry.

(2) All other words and expressions used herein but not defined and defined in the Income-tax Act, 1961 (XLIII of 1961), the Super Profits Tax Act, 1963 (XIV of 1963), the Wealth-tax Act, 1957 (XXVII of 1957), the Estate Duty Act, 1953 (XXXIV of 1953), or the Gift-tax Act, 1958 (XVIII of 1958), shall, in relation to the provisions relating to income-tax, super profits tax, wealth-tax, estate duty and gift-tax, have the meanings assigned to them in the respective enactments

Provided that where an assessee has once been assessed for any year under the Local law in respect of income from any particular source, the expression "previous year" in relation to that source of his income shall, for the purposes of making an assessment for any assessment year under the Income-tax Act, 1961, mean the year ended on the 31st day of December immediately preceding that assessment year, unless the assessee is permitted by the Income-tax Officer (the permission being subject to such conditions as the Income-tax Officer may think fit to impose) to have a different previous year in respect of that source of income

3. Scope of the main concessions in relation to income-tax.—(1) Subject to the provisions of sub-paragraph (2)—

(*i*) the provisions of paragraphs 4, 5 and 6 of this Order shall apply in the case of every assessee—

(*a*) who resided or maintained a dwelling place in Dadra and Nagar Haveli for the period or periods amounting in all to one hundred and eighty-two days or more during the calendar year 1961 or carried on any business or profession in Dadra and Nagar Haveli before the appointed day, and is assessable as a person resident in India in the previous year but would not have been so assessable if the Income-tax Act, 1961, had not extended to Dadra and Nagar Haveli, or

(*b*) who is not a resident in the previous year relevant to the assessment year,

to so much of his income included in his total income as accrues or arises in the Union territories or outside India and is not deemed to accrue or arise or is not received or is not deemed to be received in any part of India other than the Union territories,

(*ii*) the provisions of paragraphs 5 and 6 of this Order shall apply in the case of every assessee who resided or maintained a dwelling place in Goa, Daman and Diu for a period or periods amounting in all to one hundred and eighty-two days or more during the calendar year 1961 or carried on any business or profession in Goa, Daman and Diu before the appointed day and is assessable as a person resident in India in the previous year but would not have been so assessable if the Income-tax Act, 1961, had not been extended to Goa, Daman and Diu, to so much of his income included in his total income as accrues or arises in the Union territories or outside India and is not deemed to accrue or arise or is not received or is not deemed to be received in any part of India other than the Union territories,

(*iii*) the provisions of paragraphs 9, 15 and 16 shall apply in the case of every assessee referred to in sub-clause (*a*) of clause (*i*) or clause (*ii*) to so much of his income as is specified in clause (*i*) or clause (*ii*), as the case may be.

(2) Nothing contained in this Order, except in paragraphs 7 and 8, shall apply to income chargeable under the head "Salaries" which is payable on or after the appointed day—

(*i*) by the Central or any State Government to a person who was an employee of that Government immediately before the appointed day, or

(*ii*) by the Administration of Dadra and Nagar Haveli or Goa, Daman and Diu to a person whose services have been lent to that Administration by the Central or any State Government

4. Tax on income of the previous year chargeable in Dadra and Nagar Haveli in the year 1961.—The income of the previous year ending on the 31st day of December, 1961, which is chargeable to tax in Dadra and Nagar Haveli for the year 1961, shall not be assessed under the Income-tax Act, 1961, for the assessment year commencing on the 1st day of April, 1962

5. Tax on income for the previous year ending on 31st December, 1962.—(1) The income of the previous year ending on the 31st day of December, 1962, which is chargeable to tax under the Local law for the year 1962, shall be assessed under the Income-tax Act, 1961, if and only if, such income has not already been assessed under the Local law

(2) Where the income referred to in sub-paragraph (1) has not been assessed under the Local law, it shall be assessed under the Income-tax Act, 1961, for the assessment year commencing on the 1st day of April, 1963, and the tax payable thereon shall be determined as hereunder —

(*a*) the tax on the amount of such income included in the total income shall be computed at the Indian rate of tax,

(*b*) the amount of such income shall be computed under the Local law and the tax thereon computed at the Local rate of tax,

(*c*) where the amount of tax computed under clause (*a*) is less than or is equal to the amount of tax computed under clause (*b*), the amount of the first-mentioned tax shall be the tax payable, and

(*d*) where the amount of tax computed under clause (*a*) exceeds the amount of tax computed under clause (*b*), the excess shall be deducted from the first-mentioned tax and the balance shall be the tax payable

6. Tax on income assessable for the assessment year 1963-64 which does not fall under paragraph 5.—The income of any previous year relevant to the assessment year commencing on the first day of April, 1963, which does not fall within paragraph 5 of this Order, shall be assessed under the Income-tax Act, 1961, for the aforesaid assessment year and the tax payable thereon shall be determined as hereunder —

(*a*) the tax on the amount of such income included in the total income shall be computed (*i*) at the Indian rate of tax, and (*ii*) at the Local rate of tax,

(*b*) where the amount of tax computed at the Indian rate of tax is less than or is equal to the amount of tax computed at the Local rate of tax, the amount of the first-mentioned tax shall be the tax payable, and

(*c*) where the amount of tax computed at the Indian rate of tax exceeds the amount of tax computed at the Local rate of tax the excess shall be deducted from the first-mentioned tax and the balance shall be the tax payable

7. Income chargeable under the head "Salaries" for the assessment years 1962-63 and 1963-64 in certain cases.—In the case of any person referred to in sub-paragraph (2) of paragraph 3 of this Order, any allowance or perquisite paid or allowed as such by the Government in Dadra and Nagar Haveli during the previous year relevant to the assessment year commencing on the 1st day of April, 1962, or 1963 or in Goa, Daman and Diu during the previous year relevant to the assessment year commencing on the 1st day of April, 1963, for rendering service in the respective Union territory shall not be included in the total income of the person concerned

8. Credit for tax paid under the Local law.—Any tax paid by or recovered from an assessee under the Local law in respect of any income included in his total income for the previous year relevant—

(i) to the assessment year commencing on the first day of April, 1962, 1963 or 1964, in case such tax was paid or recovered in Dadra and Nagar Haveli, and

(ii) to the assessment year commencing on the first day of April, 1963, or 1964, in case such tax was paid or recovered in Goa, Daman and Diu,

shall be treated as a payment of tax in respect of that assessment year, and credit therefor shall be given to the assessee in the regular assessment for that year

9. Tax on income chargeable to tax for the assessment years 1964-65, 1965-66, 1966-67, 1967-68, 1968-69 and 1969-70.—The income of any previous year relevant to the assessment year commencing on the 1st day of April, 1964, 1965, 1966, 1967, 1968 or 1969 shall be charged to tax at the Indian rate of tax, provided that a deduction shall be allowed from the tax so computed of an amount calculated at such percentage thereof for each of the assessment years aforesaid as is specified hereunder —

For the assessment year commencing on the	
1st day of April, 1964	60%
1st day of April, 1965	45%
1st day of April, 1966	25%
1st day of April, 1967	10%
1st day of April, 1968	10%
1st day of April, 1969	10%

10. Relaxation of conditions relating to exemption from tax of the income of charitable trusts, etc., under the Income-tax Act, 1961.—Notwithstanding anything contained in section 11, section 12 and section 13 of the Income-tax Act, 1961, no income derived from property held under trust for charitable or religious purposes in Dadra and Nagar Haveli or Goa, Daman and Diu shall be included in the total income of an assessee in respect of the previous year relevant to the assessment year commencing on the 1st day of April, 1963, solely on the ground that such income has not been applied to such purposes in India during the previous year, provided that other requirements of the aforesaid sections are satisfied

11. Income of newly established industrial undertakings or hotels.—The provisions of section 84, section 85 and section 101 of the Income-tax Act, 1961, shall apply in relation to—

(i) any industrial undertaking established in Dadra and Nagar Haveli or in Goa, Daman and Diu before the 1st day of April, 1962,

(ii) any hotel that is owned and run by a company which was registered in Dadra and Nagar Haveli or in Goa, Daman and Diu before the aforesaid date,

in the same manner as they apply in relation to an industrial undertaking that began to manufacture or produce articles in any part of India other than the Union territories before that date or, as the case may be, to a hotel owned and run by a company registered in any part of India other than the Union territories

12. Relaxation of provisions relating to levy of additional super-tax on undistributed profits of certain companies for the assessment years 1963-64 and 1964-65.—The provisions of Chapter XI-D of the Income-tax Act, 1961, shall not apply in the case of a company formed and registered under any law for the time being in force in

Dadra and Nagar Haveli or Goa, Daman and Diu in respect of any previous year relevant to the assessment year commencing on the 1st day of April, 1963 or 1964

13. Relaxation of provisions relating to charging of interest under the Income-tax Act, 1961.—No interest shall be charged under the provisions of section 139 or section 220 of the Income-tax Act, 1961, in respect of the assessment for the assessment year commencing on the 1st day of April, 1963, in the case of an assessee referred to in clause (*i*) or in clause (*ii*) of sub-paragraph (1) of paragraph 3 of this Order whose total income does not include any income as accrues or arises or is deemed to accrue or arise or is received or is deemed to be received in any part of India other than the Union territories

14. Profits of non-residents from shipping business.—(1) In computing the total income of a non-resident assessee under the Income-tax Act, 1961, in respect of any previous year which includes any period prior to the 1st day of April, 1964, any income accruing or arising to such assessee in India from the carriage by any ship owned or chartered by him of any goods shipped at a port in Goa, Daman and Diu prior to the aforesaid date shall not be included in his total income and the provisions of section 172 of the said Act shall also not apply in respect of such income

(2) Where the total income of a non-resident assessee assessable for any assessment year under the Income-tax Act, 1961, includes any income accruing or arising to him in India from the carriage by any ship owned or chartered by him of any goods shipped at a port in Goa, Daman and Diu during any period falling after the 31st day of March, 1964, and before the 1st day of April, 1969, the amount of tax payable by him for the relevant assessment year shall be an amount equal to the aggregate of—

(*i*) the amount of tax payable on the income so included at the Indian rate of tax as reduced by such percentage thereof as is specified hereunder —

In respect of so much of such income as accrues or arises from the carriage of goods during the financial year commencing on

1st day of April, 1964	45%
1st day of April, 1965	25%
1st day of April, 1966	10%
1st day of April, 1967	10%
1st day of April, 1968	10%

and

(*ii*) the amount of tax payable on the balance of total income at the Indian rate of tax

(3) The tax payable by a non-resident assessee under sub-section (4) of section 172 of the Income-tax Act, 1961, during the financial years commencing on the 1st day of April, 1964, 1965, 1966, 1967 and 1968 in respect of any income referred to in sub-paragraph (2), shall be reduced by an amount equal to forty-five per cent , twenty-five per cent , ten per cent , ten per cent and ten per cent thereof respectively and the amount so reduced shall be the amount of tax payable by the assessee under that sub-section

15. Deduction of tax from "Salaries" during the financial years 1963-64, 1964-65, 1965-66, 1966-67, 1967-68 and 1968-69.—In respect of income chargeable under the head "Salaries", the tax required to be deducted under section 192 of the Income-tax Act, 1961, during each of the financial years commencing on the 1st day of April, 1963, 1964, 1965, 1966, 1967 and 1968, shall be computed on the basis of the rates of tax in force for the financial year in which payment is made, provided that a deduction

shall be allowed from the tax so computed of an amount calculated at such percentage thereof as is specified hereunder —

For the financial year commencing on the	
1st day of April, 1963	60%
1st day of April, 1964	45%
1st day of April, 1965	25%
1st day of April, 1966	10%
1st day of April, 1967	10%
1st day of April, 1968	10%

16. Advance payment of income-tax.—(1) The provisions of Chapter XVII-C of the Income-tax Act, 1961, shall not operate before the 1st day of April, 1965, in respect of any income specified in clause (*i*) or clause (*ii*) of sub-paragraph (1) of paragraph 3 of this Order

(2) The expression "latest previous year in respect of which he has been assessed by way of regular assessment" in sub-clause (*i*) of clause (*a*) of section 209 of the Income-tax Act, 1961, shall be deemed to mean the latest previous year in respect of which the assessee has been assessed either under the Local law or under the Income-tax Act, 1961, or under both, as the case may be

Provided that where the income of the latest previous year in respect of which a person has been assessed under the Local law and under the Income-tax Act, 1961, is to be taken in aggregate for the purposes of this paragraph, so much of such income as has been included in both the assessments shall be excluded from the aggregate

Explanation—In this sub-paragraph, references to the Income-tax Act, 1961, in the expression "under the Income-tax Act, 1961", wherever it occurs, shall be deemed to include references to the Indian Income-tax Act, 1922 (XI of 1922)

(3) References to "regular assessment under this Act" in sub-section (1) of section 210 and sub-section (3) of section 212 of the Income-tax Act, 1961, shall be deemed to include references to assessment under the Local law

(4) The advance tax payable by the assessee under the provisions of Chapter XVII-C of the Income-tax Act, 1961, during the financial years commencing on the 1st day of April, 1965, 1966, 1967 and 1968, in respect of any income as is referred to in clause (*i*) or clause (*ii*) of sub-paragraph (1) of paragraph 3 of this Order shall be reduced by an amount equal to twenty-five per cent, ten per cent, ten per cent and ten per cent thereof respectively and the amount so reduced shall be the amount of the advance tax payable by the assessee in respect of such income

17. Relaxation of provisions relating to imposition of penalties under the Income-tax Act, 1961.—Notwithstanding anything contained in Chapter XXI of the Income-tax Act, 1961, the Income-tax Officer, the Inspecting Assistant Commissioner or the Appellate Assistant Commissioner who is authorised to impose a penalty under any provision of that Chapter, may in the case of an assessee referred to in sub-clause (*a*) of clause (*i*) or in clause (*ii*) of sub-paragraph (1) of paragraph 3 of this Order, impose a penalty of an amount which is less than the minimum amount specified in any such provision

Provided that the provisions of this paragraph shall not apply in relation to an assessment for any assessment year commencing on or after the 1st day of April, 1967

18. Concessions in relation to super profits tax.—(1) In the case of an assessee referred to in sub-paragraph (1) of paragraph 3 of this Order—

(i) no super profits tax shall be payable under the Super Profits Tax Act, 1963, for the assessment year commencing on the 1st day of April, 1963, if the total income computed under the Income-tax Act, 1961, in respect of the previous year relevant to that assessment year does not include any income which accrues or arises or is deemed to accrue or arise or is received or is deemed to be received in any part of India other than the Union territories,

(ii) where the total income computed under the Income-tax Act, 1961, in respect of the previous year relevant to the assessment year commencing on the 1st day of April, 1963, includes any income which accrues or arises or is deemed to accrue or arise or is received or is deemed to be received in any part of India other than the Union territories, the super profits tax payable for the said assessment year shall be an amount bearing to the amount of the super profits tax computed under the provisions of the Third Schedule to the Super Profits Tax Act, 1963, the same proportion as the amount of the aforesaid income bears to the amount of the total income

(2) * * * * *

(3) * * * * *

19. Concessions in relation to wealth-tax—In the case of a person who on the relevant valuation date but for the extension of the Wealth-tax Act, 1957, to Dadra and Nagar Haveli and Goa, Daman and Diu would not have been chargeable to wealth-tax on his net wealth or would have been chargeable to such tax in accordance with the provisions of section 6 of the Wealth-tax Act, 1957, only on his net wealth situate in any part of India other than the Union territories, the wealth-tax payable—

(i) for the assessment year commencing on the 1st day of April, 1963, shall be an amount equal to the wealth-tax that would have been payable on the portion of the net wealth situate in any part of India other than the Union territories which would have been chargeable to such tax if the Wealth-tax Act, 1957, had not been extended to Dadra and Nagar Haveli and Goa, Daman and Diu, determined at the average rate applicable to such portion of the net wealth, and

(ii) for the assessment years commencing on the 1st day of April, 1964, 1965, 1966, 1967, 1968 or 1969, shall be the aggregate of the amounts of—

(a) the wealth-tax that would have been payable on the portion of the net wealth situate in any part of India other than the Union territories which would have been chargeable to such tax if the Wealth-tax Act, 1957, had not been extended to Dadra and Nagar Haveli and Goa, Daman and Diu, determined at the average rate applicable to the net wealth, and

(b) the wealth-tax determined on the remaining portion of the net wealth at the average rate applicable to the net wealth as reduced by such percentage of the wealth-tax so determined as specified hereunder —

For the assessment year commencing on the 1st day of April, 1964	75%
For the assessment year commencing on the 1st day of April, 1965	50%
For the assessment year commencing on the 1st day of April, 1966	25%

For the assessment year commencing on the 1st day of April, 1967	10%
For the assessment year commencing on the 1st day of April, 1968	10%
For the assessment year commencing on the 1st day of April, 1969	10%

Explanation—For the purposes of this paragraph, "average rate" shall mean the rate arrived at by dividing the amount of the wealth-tax calculated on the net wealth or a portion of the net wealth, as the context may require, at the rate or rates specified in the Schedule to the Wealth-tax Act, 1957, by the amount of such net wealth or such portion of the net wealth, as the case may be

20. Concessions where estate duty chargeable only consequent upon extension of the Estate Duty Act to Dadra and Nagar Haveli and Goa, Daman and Diu.—In the case of every person dying on or after the 1st day of April, 1963, the principal value of whose property passing on his death would not have been chargeable to estate duty, but for the extension of the Estate Duty Act, 1953, to Dadra and Nagar Haveli and Goa, Daman and Diu, the estate duty leviable shall be determined in accordance with the provisions of the Estate Duty Act, 1953, reduced by such percentage thereof as specified hereunder —

In the case of any death occurring in the period commencing on the 1st day of April, 1963, and ending on the 31st day of March, 1964	30%
In the case of any death occurring in the period commencing on the 1st day of April, 1964, and ending on the 31st day of March, 1965	20%
In the case of any death occurring in the period commencing on the 1st day of April, 1965, and ending on the 31st day of March, 1966	10%

21. Concessions where estate duty chargeable even if Act had not been extended to Dadra and Nagar Haveli and Goa, Daman and Diu.—Where the property passing on death includes any property on which estate duty would have been payable even if the Estate Duty Act, 1953, had not been extended to Dadra and Nagar Haveli and Goa, Daman and Diu, the duty payable shall be the aggregate of—

(*a*) the duty which would have been payable on that portion of the principal value of the property which would have been chargeable to duty if the Estate Duty Act, 1953, had not been extended to Dadra and Nagar Haveli and Goa, Daman and Diu at the average rate applicable to the principal value of the entire property passing on the death, and

(*b*) the difference between the duty payable on the principal value of the entire property passing on the death and the amount of duty computed in terms of clause (*a*), reduced by such percentage of the difference as specified hereunder —

In the case of any death occurring in the period commencing on the 1st day of April, 1963, and ending on the 31st day of March, 1964	30%
In the case of any death occurring in the period commencing on the 1st day of April, 1964, and ending on the 31st day of March, 1965	20%
In the case of any death occurring in the period commencing on the 1st day of April, 1965, and ending on the 31st day of March, 1966	10%

Explanation—For the purposes of this paragraph, "average rate" shall mean the rate arrived at by dividing the amount of duty calculated on the principal value of the entire property passing on the death at the rate or rates specified in the Second Schedule to the Estate Duty Act, 1953, by the principal value of such property

22. Concessions in relation to gift-tax.—In the case of a person who, but for the extension of the Gift-tax Act, 1958, to Dadra and Nagar Haveli and Goa, Daman

and Diu would not have been chargeable to gift-tax, or would have been chargeable to such tax only in respect of property situate in the territory of India other than the Union territories—

(*1*) no gift-tax shall be charged in respect of any gift made before the 1st day of April, 1963, for any charitable purpose within the meaning of clause (*vi*) of sub-section (1) of section 5 of the said Act which would not have been chargeable to tax but for the extension of the Gift-tax Act, 1958, to such Union territories,

(*2*) in respect of any gift to which the provisions of clause (*1*) do not apply and which is otherwise chargeable to tax, the tax payable,—

(*a*) for the assessment year commencing on the 1st day of April, 1963, shall be an amount equal to the aggregate of—

(*i*) the tax that would have been payable on the portion of the taxable gifts representing property situate in that part of India other than the Union territories which would have been chargeable to tax if the Gift-tax Act, 1958, had not been extended to Dadra and Nagar Haveli and Goa, Daman and Diu, and

(*ii*) the tax that would have been payable under the Goa Succession Tax Act by all the donees to whom gifts which would have been taxable under that law had been made by the assessee in the period corresponding to the previous year for the assessment year commencing on the 1st day of April, 1963

Provided that the aggregate tax payable under this sub-clause shall in no case exceed the tax that would have been payable under the Gift-tax Act, 1958, had this Order not been in force

Provided further that abatement shall be allowed for the amounts of tax, if any, actually paid under the Goa Succession Tax Act by all the donees referred to in this sub-clause to the extent the payments so made do not exceed the amount of the aggregate tax leviable under this sub-clause, and

(*b*) for the assessment years commencing on the 1st day of April, 1964, 1965 or 1966, shall be the aggregate of the amount of—

(*i*) the tax that would have been payable on the portion of the taxable gifts representing property situate in that part of India other than the Union territories which would have been chargeable to tax if the Gift-tax Act, 1958, had not been extended to Dadra and Nagar Haveli and Goa, Daman and Diu at the average rate applicable to all the taxable gifts, and

(*ii*) the tax determined on the remaining portion of the taxable gifts at the average rate applicable to all the taxable gifts as reduced by an amount equal to thirty per cent, twenty per cent and ten per cent thereof respectively for the assessment years aforesaid

Provided that abatement shall be allowed for the tax paid by all the donees under the Goa Succession Tax Act in respect of all the gifts made by the assessee which would have been liable to tax under that Act in the period corresponding to the previous year for the assessment year commencing on the 1st day of April, 1964, to the

extent such tax does not exceed the aggregate tax payable under this sub-clause,

(3) where any donee referred to in sub-clause (a) of clause (2) or the proviso to sub-clause (b) of that clause has not paid the full amount of tax that he was liable to pay under the Goa Succession Tax Act and in respect of the gift or portion of such gift made to such donee after adjustment of the entire abatement permissible in terms of the second proviso to sub-clause (a) of clause (2) or the proviso to sub-clause (b) of that clause any tax is actually paid by the assessee, the assessee shall be entitled to recover the sum so paid from the donee by whom such amount would have been payable under the Goa Succession Tax Act,

(4) (a) the tax payable under section 18 of the Gift-tax Act, 1958, in respect of a taxable gift which would be assessable in the assessment years commencing on the 1st day of April, 1963, 1964, 1965 or 1966, shall be an amount equal to the tax that would be payable after giving effect to the provisions of this paragraph,

(b) in the case of taxable gifts made before the 25th day of March, 1964, which are assessable either in the assessment for the year commencing on the 1st day of April, 1964, or the 1st day of April, 1965, the payment required to be made under section 18 of the Gift-tax Act, 1958, in accordance with sub-clause (a) may be made on or before the 24th day of April, 1964,

(5) notwithstanding anything contained in Chapter IV of the Gift-tax Act, 1958, the Gift-tax Officer, the Inspecting Assistant Commissioner of Gift-tax, the Appellate Assistant Commissioner of Gift-tax, the Commissioner of Gift-tax or the Appellate Tribunal who is authorised to impose a penalty under any provision of that Chapter, may impose a penalty of an amount which is less than the minimum amount specified in any such provision, provided that the provisions of this paragraph shall not apply in relation to an assessment for any assessment year commencing on or after the 1st day of April, 1967

Explanation—For the purpose of this paragraph,—

(i) "average rate" shall mean the rate arrived at by dividing the amount of gift-tax calculated on all the taxable gifts at the rate or rates specified in the Schedule by the amount of such taxable gifts, and

(ii) "Goa Succession Tax Act" means the law corresponding to the Gift-tax Act, 1958, which was in force in Dadra and Nagar Haveli and Goa, Daman and Diu immediately before the 1st day of April, 1963

THE PONDICHERRY (TAXATION CONCESSIONS) ORDER, 1964

(*Notification No S O 660, dated 20th February 1964*)

In exercise of the powers conferred by section 294A of the Income-tax Act, 1961 (XLIII of 1961), section 25 of the Super Profits Tax Act, 1963 (XIV of 1963), section 46A of the Wealth-tax Act, 1957 (XXVII of 1957), sub-section (2) of section 33 of the Estate Duty Act, 1953 (XXXIV of 1953), and section 46A of the Gift-tax Act, 1958 (XVIII of 1958), the Central Government hereby makes the exemptions, reductions in rate and the modifications specified in this Order.

1. Short title.—This Order may be called the Pondicherry (Taxation Concessions) Order, 1964

2. Definitions.—(1) In this Order, unless the context otherwise requires—

(*a*) "French law" means any law relating to income-tax or super-tax in force in Pondicherry immediately before the 1st day of April, 1963,

(*b*) "French rate of tax" means the rate determined by dividing the amount of income-tax and super-tax payable on the total income (including agricultural income) according to the rates of tax in force in Pondicherry immediately before the 1st day of April, 1963, by the amount of such total income,

(*c*) "Indian rate of tax" means the rate determined by dividing the amount of income-tax and super-tax payable on the total income in respect of the relevant previous year under the provisions of the Income-tax Act, 1961, by the amount of such total income,

(*d*) "Pondicherry" means the Union territory of Pondicherry,

(*e*) "Union territories" means the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry

(2) All other words and expressions used herein but not defined and defined in the Income-tax Act, 1961 (XLIII of 1961), the Super Profits Tax Act, 1963 (XIV of 1963), the Wealth-tax Act, 1957 (XXVII of 1957), the Estate Duty Act, 1953 (XXXIV of 1953), or the Gift-tax Act, 1958 (XVIII of 1958), shall, in relation to the provisions relating to income-tax, super profits tax, wealth-tax, estate duty and gift-tax, have the meanings assigned to them in the respective enactments.

Provided that where an assessee has once been assessed for any year under the French law in respect of income from any particular source, the expression "previous year" in relation to that source of his income shall, for the purposes of making an assessment for any assessment year under the Income-tax Act, 1961, mean the year ended on the 31st day of December, immediately preceding that assessment year, unless the assessee is permitted by the Income-tax Officer (the permission being subject to such conditions as the Income-tax Officer may think fit to impose) to have a different previous year in respect of that source of income

3. Scope of the main concessions in relation to income-tax.—(1) Subject to the provisions of sub-paragraph (2)—

(*i*) the provisions of paragraphs 4 and 5 of this Order shall apply in the case of every assessee—

(*a*) who resided or maintained a dwelling place in Pondicherry for a period or periods amounting in all to one hundred and eighty-two days or more during the calendar year 1962 or carried on any business or profession in Pondicherry at any time prior to the 16th day of August, 1962, and is assessable as a person resident in India in the previous year relevant to the assessment year but would not have been so assessable if the Income-tax Act, 1961, had not been extended to Pondicherry, or

(*b*) who is not resident in India in the previous year relevant to the assessment year, to so much of his income included in his total income as accrues or arises in the Union territories or outside India and is not deemed to accrue or arise or is not received or is not deemed to be received in any part of India other than the Union territories,

(ii) the provisions of paragraphs 8, 14 and 15 shall apply in the case of every assessee referred to in sub-clause (a) of clause (i) to so much of his income included in his total income as is specified in the said clause

(2) Nothing contained in this Order, except in paragraphs 6 and 7, shall apply to income chargeable under the head "Salaries" which is payable on or after the 1st day of April, 1962—

(a) by the Central or any State Government to a person who was an employee of that Government immediately before the 1st day of April, 1962, or

(b) by the Pondicherry Administration to a person whose services have been lent to that Administration by the Central or any State Government

4. Tax on income for the previous year ending on 31st December, 1962.—(1) The income of the previous year ending on the 31st December, 1962, which is the previous year for the French assessment year 1963, shall be assessed under the Income-tax Act, 1961, if and only if such income has not already been assessed under the French law

(2) Where the income referred to in sub-paragraph (1) has not been assessed under the French law, it shall be assessed under the Income-tax Act, 1961, for the assessment year commencing on the 1st day of April, 1963, and the tax payable thereon shall be determined as hereunder —

(a) the tax on the amount of such income included in the total income shall be computed at the Indian rate of tax,

(b) the amount of such income shall be computed under the French law and the tax thereon computed at the French rate of tax,

(c) where the amount of tax computed under clause (a) is less than or is equal to the amount of tax computed under clause (b), the amount of the first-mentioned tax shall be the tax payable, and

(d) where the amount of tax computed under clause (a) exceeds the amount of tax computed under clause (b), the excess shall be deducted from the first-mentioned tax and the balance shall be the tax payable.

5. Tax on income assessable in 1963-64 which does not fall under paragraph 4.—The income of any previous year relevant to the assessment year commencing on the 1st day of April, 1963, which does not fall within paragraph 4 of this Order shall be assessed under the Income-tax Act, 1961, for the aforesaid assessment year and the tax payable thereon shall be determined as hereunder —

(a) the tax on the amount of such income included in the total income shall be computed (i) at the Indian rate of tax, and (ii) at the French rate of tax,

(b) where the amount of tax computed at the Indian rate of tax is less than or is equal to the amount of tax computed at the French rate of tax, the amount of the first-mentioned tax shall be the tax payable, and

(c) where the amount of tax computed at the Indian rate of tax exceeds the amount of tax computed at the French rate of tax, the excess shall be deducted from the first-mentioned tax and the balance shall be the tax payable

6. Income chargeable under the head "Salaries" for the assessment year 1963-64 in certain cases.—In computing the total income of the previous year relevant to the assessment year commencing on the 1st day of April, 1963, in the case of any person referred to in sub-paragraph (2) of paragraph 3 of this Order, any allowance or

perquisite paid or allowed as such in Pondicherry by Government for rendering service in Pondicherry shall not be included in such total income

7. Credit for tax paid under the French law.—Any tax paid by or recovered from an assessee under the French law in respect of any income included in his total income for the previous year relevant to the assessment year commencing on the 1st day of April, 1963, shall be treated as a payment of tax in respect of that assessment year, and credit therefor shall be given to the assessee in the regular assessment for that year

8. Tax on income chargeable to tax for the assessment years 1964-65, 1965-66, 1966-67, 1967-68, 1968-69 and 1969-70.—The income of any previous year relevant to the assessment year commencing on the 1st day of April, 1964, 1965, 1966, 1967, 1968 or 1969, shall be charged to tax at the Indian rate of tax, provided that a deduction shall be allowed from the tax so computed of an amount calculated at such percentage thereof for each of the assessment years aforesaid as is specified hereunder —

For the assessment year commencing on the 1st day of April, 1964	60%
For the assessment year commencing on the 1st day of April, 1965	45%
For the assessment year commencing on the 1st day of April, 1966	25%
For the assessment year commencing on the 1st day of April, 1967	10%
For the assessment year commencing on the 1st day of April, 1968	10%
For the assessment year commencing on the 1st day of April, 1969	10%

9. Relaxation of conditions relating to exemption from tax of the income of charitable trusts, etc., under the Income-tax Act, 1961.—Notwithstanding anything contained in section 11, section 12 and section 13 of the Income-tax Act, 1961, no income derived from property held under trust for charitable or religious purposes in Pondicherry shall be included in the total income of an assessee in respect of the previous year relevant to the assessment year commencing on the 1st day of April, 1963, solely on the ground that such income has not been applied to such purposes in India during the previous year, provided that other requirements of the aforesaid sections are satisfied

10. Income of newly established industrial undertakings or hotels.—The provisions of section 84, section 85 and section 101 of the Income-tax Act, 1961, shall apply in relation to—

(*i*) any industrial undertaking established in Pondicherry before the 1st day of April, 1962,

(*ii*) any hotel that is owned and run by a company which was registered in Pondicherry before the said date,

in the same manner as they apply in relation to an industrial undertaking that began to manufacture or produce articles in any part of India other than the Union territories before that date or, as the case may be, to a hotel owned and run by a company registered in any part of India other than the Union territories

11. Relaxation of provisions relating to levy of additional super-tax on undistributed profits of certain companies for the assessment years 1963-64 and 1964-65.—The provisions of Chapter XI-D of the Income-tax Act, 1961, shall not apply in the case of a company formed and registered under any law for the time being in force in Pondicherry in respect of any previous year relevant to the assessment year commencing on the 1st day of April, 1963 or 1964

12. Relaxation of provisions relating to charging of interest under the Income-tax Act, 1961.—No interest shall be charged under the provisions of section 139 or section 220 of the Income-tax Act, 1961, in respect of the assessment for the assessment year commencing on the 1st day of April, 1963, in the case of an assessee referred to in sub-clause (*a*) or sub-clause (*b*) of clause (*i*) of sub-paragraph (1) of paragraph 3 of this Order whose total income does not include any income as accrues or arises or is deemed to accrue or arise or is received or is deemed to be received in any part of India other than the Union territories

13. Profits of non-residents from shipping business.—(1) In computing the total income of a non-resident assessee under the Income-tax Act, 1961, in respect of any previous year which includes any period prior to the 1st day of April, 1964, any income accruing or arising to such assessee in India from the carriage by any ship owned or chartered by him of any goods shipped at a port in Pondicherry prior to the aforesaid date shall not be included in his total income and the provisions of section 172 of the said Act shall also not apply in respect of such income

(2) Where the total income of a non-resident assessee assessable for any assessment year under the Income-tax Act, 1961, includes any income accruing or arising to him in India from the carriage by any ship owned or chartered by him of any goods shipped at a port in Pondicherry during any period falling after the 31st day of March, 1964, and before the 1st day of April, 1969, the amount of tax payable by him for the relevant assessment year shall be an amount equal to the aggregate of—

(*i*) the amount of tax payable on the income so included at the Indian rate of tax as reduced by such percentage thereof as is specified hereunder·—

In respect of so much of such income as accrues or arises from the carriage of goods during the financial year commencing on

1st day of April, 1964	45%
1st day of April, 1965	25%
1st day of April, 1966	10%
1st day of April, 1967	10%
1st day of April, 1968	10%

and

(*ii*) the amount of tax payable on the balance of total income at the Indian rate of tax

(3) The tax payable by a non-resident assessee under sub-section (4) of section 172 of the Income-tax Act, 1961, during the financial years commencing on the 1st day of April, 1964, 1965, 1966, 1967 and 1968 in respect of any income referred to in sub-paragraph (2), shall be reduced by an amount equal to forty-five per cent, twenty-five per cent, ten per cent, ten per cent and ten per cent thereof respectively and the amount so reduced shall be the amount of tax payable by the assessee under that sub-section

14. Deduction of tax from "Salaries" during the financial years 1963-64, 1964-65, 1965-66, 1966-67, 1967-68 and 1968-69.—In respect of income chargeable under the head "Salaries", the tax required to be deducted under section 192 of the Income-tax Act, 1961, during each of the financial years commencing on the 1st day of April, 1963, 1964, 1965, 1966, 1967 and 1968, shall be computed on the basis of the rates of tax in force for the financial year in which payment is made, provided that a deduction shall be allowed from the tax so computed of an amount calculated at such percentage thereof as is specified hereunder —

For the financial year commencing on the 1st day of April, 1963	60%
For the financial year commencing on the 1st day of April, 1964	45%

For the financial year commencing on the 1st day of April, 1965	25%
For the financial year commencing on the 1st day of April, 1966	10%
For the financial year commencing on the 1st day of April, 1967	10%
For the financial year commencing on the 1st day of April, 1968	10%

15. Advance payment of income-tax.—(1) The provisions of Chapter XVII-C of the Income-tax Act, 1961, shall not operate before the 1st day of April, 1965, in respect of any income specified in clause (*i*) of sub-paragraph (1) of paragraph 3 of this Order

(2) The expression "latest previous year in respect of which he has been assessed by way of regular assessment" in sub-clause (*i*) of clause (*a*) of section 209 of the Income-tax Act, 1961, shall be deemed to mean the latest previous year in respect of which the assessee has been assessed either under the French law or under the Income-tax Act, 1961, or under both, as the case may be

Provided that where the income of the latest previous year in respect of which a person has been assessed under the French law and under the Income-tax Act, 1961, is to be taken in aggregate for the purposes of this paragraph, so much of such income as has been included in both the assessments shall be excluded from the aggregate

Explanation.—In this sub-paragraph, references to the Income-tax Act, 1961, in the expression "under the Income-tax Act, 1961", wherever it occurs, shall be deemed to include references to the Indian Income-tax Act, 1922 (XI of 1922)

(3) References to "regular assessment under this Act" in sub-section (1) of section 210 and sub-section (3) of section 212 of the Income-tax Act, 1961, shall be deemed to include references to assessment under the French law

(4) The advance tax payable by the assessee under the provisions of Chapter XVII-C of the Income-tax Act, 1961, during the financial years commencing on the 1st day of April, 1965, 1966, 1967 and 1968, in respect of any income as is referred to in clause (*i*) of sub-paragraph (1) of paragraph 3 of this Order shall be reduced by an amount equal to twenty-five per cent, ten per cent, ten per cent and ten per cent thereof respectively and the amount so reduced shall be the amount of the advance tax payable by the assessee in respect of such income

16. Relaxation of provisions relating to imposition of penalties under the Income-tax Act, 1961.—Notwithstanding anything contained in Chapter XXI of the Income-tax Act, 1961, the Income-tax Officer, the Inspecting Assistant Commissioner or the Appellate Assistant Commissioner who is authorised to impose a penalty under any provision of that Chapter, may in the case of an assessee referred to in sub-clause (*a*) of clause (*i*) of sub-paragraph (1) of paragraph 3 of this Order, impose a penalty of an amount which is less than the minimum amount specified in any such provision

Provided that the provisions of this paragraph shall not apply in relation to an assessment for any assessment year commencing on or after the 1st day of April, 1967.

17. Concessions in relation to super profits tax.—(1) In the case of an assessee referred to in sub-paragraph (1) of paragraph 3 of this Order—

(*i*) no super profits tax shall be payable under the Super Profits Tax Act, 1963, for the assessment year commencing on the 1st day of April, 1963, if the total income computed under the Income-tax Act, 1961, in respect of the previous year relevant to that assessment year does not include any income which accrues or arises or is deemed to accrue or arise or is

received or is deemed to be received in any part of India other than the Union territories,

(*ii*) where the total income computed under the Income-tax Act, 1961, in respect of the previous year relevant to the assessment year commencing on the 1st day of April, 1963, includes any income which accrues or arises or is deemed to accrue or arise or is received or is deemed to be received in any part of India other than the Union territories, the super profits tax payable for the said assessment year shall be an amount bearing to the amount of the super profits tax computed under the provisions of the Third Schedule to the Super Profits Tax Act, 1963, the same proportion as the amount of the aforesaid income bears to the amount of the total income

(2) * * * * *

(3) * * * * *

18. Concessions in relation to wealth-tax.—In the case of a person who on the relevant valuation date but for the extension of the Wealth-tax Act, 1957, to Pondicherry would not have been chargeable to wealth-tax on his net wealth or would have been chargeable to such tax in accordance with the provisions of section 6 of the Wealth-tax Act, 1957, only on his net wealth situate in any part of India other than the Union territories, the wealth-tax payable,—

(*i*) for the assessment year commencing on the 1st day of April, 1963, shall be an amount equal to the wealth-tax that would have been payable on the portion of the net wealth situate in any part of India other than the Union territories which would have been chargeable to such tax if the Wealth-tax Act, 1957, had not been extended to Pondicherry, determined at the average rate applicable to such portion of the net wealth, and

(*ii*) for the assessment years commencing on the 1st day of April, 1964, 1965, 1966, 1967, 1968 and 1969, shall be the aggregate of the amounts of—

(*a*) the wealth-tax that would have been payable on the portion of the net wealth situate in any part of India other than the Union territories which would have been chargeable to such tax if the Wealth-tax Act, 1957, had not been extended to Pondicherry, determined at the average rate applicable to the net wealth, and

(*b*) the wealth-tax determined on the remaining portion of the net wealth at the average rate applicable to the net wealth as reduced by such percentage of the wealth-tax so determined as specified hereunder —

For the assessment year commencing on the 1st day of April, 1964	75%
For the assessment year commencing on the 1st day of April, 1965	50%
For the assessment year commencing on the 1st day of April, 1966	25%
For the assessment year commencing on the 1st day of April, 1967	10%
For the assessment year commencing on the 1st day of April, 1968	10%
For the assessment year commencing on the 1st day of April, 1969	10%

Explanation—For the purposes of this paragraph, "average rate" shall mean the rate arrived at by dividing the amount of wealth-tax calculated on the net wealth or a portion of the net wealth, as the context may require, at the rate or rates specified in the Schedule to the Wealth-tax Act, 1957, by the amount of such net wealth or such portion of the net wealth, as the case may be

19. Concessions where estate duty chargeable only consequent upon extension of the Estate Duty Act to Pondicherry.—In the case of every person dying on or after the 1st day of April, 1963, the principal value of whose property passing on his death would not have been chargeable to estate duty, but for the extension of the Estate Duty Act, 1953, to Pondicherry, the estate duty leviable shall be determined in accordance with the provisions of the Estate Duty Act, 1953, reduced by such percentage thereof as specified hereunder —

In the case of any death occurring in the period commencing on the 1st day of April, 1963, and ending on the 31st day of March, 1964	50%
In the case of any death occurring in the period commencing on the 1st day of April, 1964, and ending on the 31st day of March, 1965	30%
In the case of any death occurring in the period commencing on the 1st day of April, 1965, and ending on the 31st day of March, 1966	15%

20. Concessions where estate duty chargeable even if Act had not been extended to Pondicherry.—Where the property passing on death includes any property on which estate duty would have been payable even if the Estate Duty Act, 1953, had not been extended to Pondicherry, the duty payable shall be the aggregate of—

(*a*) the duty which would have been payable on that portion of the principal value of the property which would have been chargeable to duty if the Estate Duty Act, 1953, had not been extended to Pondicherry, at the average rate applicable to the principal value of the entire property passing on the death, and

(*b*) the difference between the duty payable on the principal value of the entire property passing on the death and the amount of duty computed in terms of clause (*a*), reduced by such percentage of the difference as specified hereunder —

In the case of any death occurring in the period commencing on the 1st day of April, 1963, and ending on the 31st day of March, 1964	50%
In the case of any death occurring in the period commencing on the 1st day of April, 1964, and ending on the 31st day of March, 1965	30%
In the case of any death occurring in the period commencing on the 1st day of April, 1965, and ending on the 31st day of March, 1966	15%

Explanation —For the purposes of this paragraph, "average rate" shall mean the rate arrived at by dividing the amount of duty calculated on the principal value of the entire property passing on the death at the rate or rates specified in the Second Schedule to the Estate Duty Act, 1953, by the principal value of such property

21. Concessions in relation to gift-tax.—In the case of a person who, but for the extension of the Gift-tax Act, 1958, to Pondicherry, would not have been chargeable to gift-tax, or would have been chargeable to such tax only in respect of the property situate in the territory of India other than the Union territories—

(*1*) no gift-tax shall be charged in respect of—

(*a*) any gift made before the 16th day of August, 1962, or

(*b*) any gift made before the 1st day of April, 1963, for any charitable purpose within the meaning of clause (*vi*) of sub-section (1) of section 5 of the said Act,

which would not have been chargeable to tax but for the extension of the Gift-tax Act, 1958, to such Union territories,

(*2*) in respect of any gift to which the provisions of sub-clause (*a*) or sub-clause (*b*) of clause (*1*) do not apply and which is otherwise chargeable to tax, the tax payable,—

(*a*) for the assessment year commencing on the 1st day of April, 1963, shall be an amount equal to the tax that would have been payable

on the portion of the taxable gifts representing property situate in that part of India other than the Union territories which would have been chargeable to tax if the Gift-tax Act, 1958, had not been extended to Pondicherry, and

(*b*) for the assessment years commencing on the 1st day of April, 1964, 1965 or 1966, shall be the aggregate of the amounts of—

(*i*) the tax that would have been payable on the portion of the taxable gifts representing property situate in that part of India other than the Union territories which would have been chargeable to tax if the Gift-tax Act, 1958, had not been extended to Pondicherry calculated at the average rate applicable to all the taxable gifts, and

(*ii*) the tax determined on the remaining portion of all the taxable gifts at the average rate applicable to all the taxable gifts as reduced by an amount equal to seventy-five per cent, fifty per cent and twenty-five per cent thereof respectively for the assessment years aforesaid,

(*3*) (*a*) the tax payable under section 18 of the Gift-tax Act, 1958, in respect of a taxable gift which would be assessable in the assessment years commencing on the 1st day of April, 1963, 1964, 1965 or 1966, shall be an amount equal to the tax that would be payable after giving effect to the provisions of this paragraph,

(*b*) in the case of taxable gifts made before the 25th day of March, 1964, which are assessable either in the assessment year commencing on the 1st day of April, 1964, or the 1st day of April, 1965, the payment required to be made under section 18 of the Gift-tax Act, 1958, in accordance with sub-clause (*a*) may be made on or before the 24th day of April, 1964,

(*4*) notwithstanding anything contained in Chapter IV of the Gift-tax Act, 1958, the Gift-tax Officer, the Inspecting Assistant Commissioner of Gift-tax, the Appellate Assistant Commissioner of Gift-tax, the Commissioner of Gift-tax or the Appellate Tribunal who is authorised to impose a penalty under any provision of that Chapter may impose a penalty of an amount which is less than the minimum amount specified in any such provision, provided that the provisions of this clause shall not apply in relation to an assessment for any assessment year commencing on or after the 1st day of April, 1967

Explanation—For the purposes of this paragraph, "average rate" shall mean the rate arrived at by dividing the amount of gift-tax calculated on all the taxable gifts at the rate or rates specified in the Schedule to the Gift-tax Act, 1958, by the amount of such taxable gifts

THE DADRA AND NAGAR HAVELI, GOA, DAMAN AND DIU AND PONDICHERRY (SURTAX CONCESSIONS) ORDER, 1965

(*Notification No S O 775, dated 8th March 1965*)

In exercise of the powers conferred by section 24 of the Companies (Profits) Surtax Act, 1964 (VII of 1964), the Central Government hereby makes the following Order, namely —

1. Short title.—This Order may be called the Dadra and Nagar Haveli, Goa, Daman and Diu and Pondicherry (Surtax Concessions) Order, 1965

2. Concessions in relation to surtax.—(1) In the case of an assessee referred to in sub-clause (*a*) of clause (*i*) or clause (*ii*) of sub-paragraph (1) of paragraph 3 of the Dadra and Nagar Haveli and Goa, Daman and Diu (Taxation Concessions) Order, 1964, or in sub-clause (*a*) of clause (*i*) of sub-paragraph (1) of paragraph 3 of the Pondicherry (Taxation Concessions) Order, 1964, the amount of any deduction in respect of income-tax and super-tax allowed for any assessment year under paragraph 9 of the first-mentioned Order or under paragraph 8 of the second-mentioned Order shall be deducted from the amount of chargeable profits of the relevant previous year computed under the First Schedule to the Companies (Profits) Surtax Act, 1964 (hereinafter referred to as the Act), and the balance shall be deemed to be the amount of chargeable profits for the purposes of the Act

(2) In making any assessment under the Act for the assessment year commencing on the 1st day of April, 1964, 1965 or 1966, in the case of any assessee referred to in sub-paragraph (1) of this paragraph—

(*i*) where the total income computed under the Income-tax Act, 1961, in respect of the previous year relevant to any assessment year aforesaid does not include any income which accrues or arises or is deemed to accrue or arise or is received or is deemed to be received in any part of India other than the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu and Pondicherry, a deduction shall be allowed from the amount of the surtax computed under the provisions of the Third Schedule to the Act of a sum equal to seventy-five per cent , fifty per cent and twenty-five per cent thereof respectively for the assessment years aforesaid and the balance shall be the amount of the surtax payable for the relevant assessment year,

(*ii*) where the total income computed under the Income-tax Act, 1961, in respect of the previous year relevant to any assessment year aforesaid includes any income as is referred to in clause (*i*), the amount of the surtax payable for the relevant assessment year shall be an amount equal to the aggregate of—

(*a*) an amount which bears to the amount of the surtax computed under the Third Schedule to the Act for that assessment year the same proportion which the amount of such inclusion bears to the total income in respect of the relevant previous year, and

(*b*) the balance of the amount of such surtax as reduced by an amount equal to seventy-five per cent , fifty per cent and twenty-five per cent thereof respectively for the assessment years commencing on the 1st day of April, 1964, 1965 and 1966

NOTIFICATION UNDER ART. 239(1) OF THE CONSTITUTION

(*Notification No S O 4178, dated 2nd December 1964*)

In pursuance of clause (1) of article 239 of the Constitution, the President hereby directs that the Lieutenant Governors of Pondicherry and Goa, Daman and Diu and the Administrator of Dadra and Nagar Haveli, shall, subject to the control of the President and until further orders, exercise the powers, and discharge the functions, of the State Government conferred by or under the Income-tax Act, 1961 (XLIII of 1961), within their respective Union territories

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TAX CREDIT CERTIFICATES

THE TAX CREDIT CERTIFICATE (EXPORTS) SCHEME, 1965

(*Notification No G S R 1183, dated 17th August 1965*)

In exercise of the powers conferred by section 280ZE of the Income-tax Act, 1961 (XLIII of 1961), read with section 280ZC thereof and of all other powers enabling it in this behalf, the Central Government hereby makes the following Scheme, namely —

1. Short title and commencement.—(1) This Scheme may be called the Tax Credit Certificate (Exports) Scheme, 1965

(2) It shall come into force on the 1st day of October, 1965

2. Definitions.—(1) In this Scheme, unless the context otherwise requires,—

(*a*) "Act" means the Income-tax Act, 1961 (XLIII of 1961);

(*b*) "authorised dealer" means a person for the time being authorised under section 3 of the Foreign Exchange Regulation Act, 1947 (VII of 1947), to deal in foreign exchange,

(*c*) "certificate" means a tax credit certificate referred to in section 280ZC,

(*d*) "competent officer" means an officer other than the Director, appointed in pursuance of paragraph 4 of this Scheme and having jurisdiction over the area in which the customs station is situate,

(*e*) "customs station" with reference to goods or merchandise means a customs station as defined in clause (*13*) of section 2 of the Customs Act, 1962 (LII of 1962), through which the export of the goods or merchandise took place,

(*f*) "Director" means the Director of Tax Credit (Exports) appointed under paragraph 4 of the Scheme,

(*g*) "form" shall be construed as reference to a form set out in the Appendix hereto,

(*h*) "paragraph" and "sub-paragraph" shall respectively mean a paragraph and a sub-paragraph of this Scheme,

(*i*) "Reserve Bank" means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934 (II of 1934), and

(*j*) "section" means a section of the Act

(2) All references in this Scheme to "date of export" in relation to the goods or merchandise exported out of India shall be construed to mean the date on which an order under section 51 of the Customs Act, 1962 (LII of 1962), permitting clearance and loading of such goods or merchandise for exportation was made and where there is more than one such date in respect of goods or merchandise covered by the same shipping bill or bill of export, the last of such dates

3. Goods, merchandise and destination of export.—Subject to the provisions of this Scheme, a certificate shall be granted, in respect of goods or merchandise specified in column (2) of the Table below which are exported to destinations specified in column (4) thereof and the date of export of which falls after the 28th day of February, 1965,

for an amount calculated at the rates specified against each of them in column (3) of the said Table as in force on the date of such export.

Provided that—

(*a*) in the case of any such goods or merchandise,—

(*i*) the date of export of which falls on or before the 5th day of June, 1966, and

(*ii*) the sale proceeds whereof are received in India in accordance with the Foreign Exchange Regulation Act, 1947 (VII of 1947), and the rules made thereunder after the said date,

the certificate shall be granted for an amount calculated at 16/25 of the rate specified in column (3) of the said Table in respect of such goods or merchandise,

(*b*) in the case of any such goods or merchandise, the date of export of which falls after the 5th day of June, 1966, the rate specified in column (3) of the said Table in respect of such goods or merchandise shall be deemed to be nil and accordingly no certificate shall be granted in respect of such goods or merchandise.

TABLE

Serial No	Goods or merchandise	Rate per cent of the sale proceeds received in India	Destination of export
(1)	(2)	(3)	(4)
1	Goods made wholly or mainly of jute, not otherwise specified	2	All places outside India other than those in— (*i*) Nepal, (*ii*) Bhutan, or (*iii*) Sikkim
2	Cashew kernels in consumer packing of 2 kilograms or less	2	Do
3	De-oiled rice bran	2	Do
4	Green tea	5	Do
5	Tea (other than green tea) in consumer packing of 1 kilogram or less	5	Do
6	Tea not otherwise specified	2	Do
7	Calcined Magnesite	5	Do
8	Iron ore fines (raw, washed or pelletised)	10	Do
9	Lumpy iron ore originating from mines the nearest loading point of which is not less than 200 kilometers away from the customs station (whatever be the mode of transport used)	10	Do

Serial No	Goods or merchandise	Rate per cent of the sale proceeds received in India	Destination of export
(1)	(2)	(3)	(4)
10	Coal	10	All places outside India other than those in— (i) Nepal, (ii) Bhutan, or (iii) Sikkim
11	Fresh fruits other than nuts	10	Do
12	Surgical cotton and surgical dressings	10	Do
13	Guar gum (refined, pulverised or treated)	10	Do
14	Myrobalan extract	10	Do
15	Crushed bones	10	Do
16	Refractories	10	Do
17	Tiles of earthenware	10	Do
18	Manganese ore containing 48% or less of manganese (Mn)	15	Do
19	All mineral ores other than iron ore and manganese ore	15	Do
20	Ferro-manganese	15	Do
21	Alcoholic beverages	15	Do
22	Processed mica powder	15	Do
23	Guar splits	5	Do
24	De-oiled extractions of groundnut oil cakes	2	Do
25	Jute carpet backing cloth	10	Do
26	Coir yarn	2	Do
27	Coir ropes coir mats and coir mattings	5	Do
28	All sorts of leather and leather goods (excluding raw hides and raw skins)	2	Do
29	Fresh vegetables	10	Do

NOTE 1 —The rate per cent specified in column (3) shall take effect in respect of goods specified against Serial Nos 23, 24 and 26 to 29 (both inclusive) from the 1st day of October, 1965

NOTE 2 —The rate per cent specified in column (3) in respect of goods specified against Serial No 25 shall be deemed to have taken effect on and from the 1st day of May, 1966

4. Appointment of officers.—(1) The Central Government may, from amongst officers of Government or of the Reserve Bank, appoint by notification in the Official Gazette, a Director of Tax Credit (Exports) and as many Deputy Directors of Tax Credit (Exports) and Assistant Directors of Tax Credit (Exports) as it thinks fit for

the purpose of the implementation of this Scheme and specify the areas of their respective jurisdictions

(2) The Director shall be responsible for the implementation of the Scheme and shall in the discharge of his functions be under the control of the Central Government

(3) Subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, the Director may appoint such executive or ministerial staff as may be necessary to assist him in the implementation of this Scheme

(4) The Deputy Directors shall be subordinate to the Director and the Assistant Directors shall be subordinate to the Director and the Deputy Director within whose jurisdiction they discharge their functions

(5) Where under sub-paragraph (1) the same area has been assigned to more than one officer, such officers shall exercise such powers and perform such duties in accordance with any orders which the Director may make for the distribution and allocation of work to be performed

(6) All officers and persons engaged in the implementation of this Scheme shall observe and follow the orders, instructions and directions of the Central Government:

Provided that no such orders, instructions or directions shall be given so as to interfere with the discretion of the Director in the exercise of his appellate functions under paragraph 9 of this Scheme

5. Notice of intention to apply for certificate.—(1) Any person who intends to apply for a certificate in respect of any goods or merchandise shall give notice to that effect to the competent officer,—

(*i*) in the case of goods or merchandise the date of export of which falls after the 28th day of February, 1965, and before the commencement of this Scheme, within thirty days from such commencement, and

(*ii*) in any other case, within thirty days from the date of export of such goods or merchandise

Provided that the competent officer may allow the notice to be given after the expiration of the period aforesaid if he is satisfied that the person had sufficient cause for not giving it within that period

(2) Every notice under sub-paragraph (1) shall be in Form A and contain the particulars specified therein and shall be accompanied by a copy of the bill of lading or other corresponding document relating to the export of such goods or merchandise given by the carrier to the consignor thereof and also by a copy of the relevant invoice duly certified by the authorised dealer

6. Receipt of sale proceeds in India and intimation thereof.—(1) For the purposes of this Scheme, a person who exports any goods or merchandise out of India shall be said to receive the sale proceeds thereof in India in a case—

(*i*) where the authorised dealer through whose medium the relevant bills or shipping documents are negotiated or sent for collection, receives in India the whole or any part of sale proceeds in accordance with the Foreign Exchange Regulation Act, 1947, and the rules made thereunder, to the extent to which and on the date on which the amount is so received, and

(*ii*) where such person has, under special arrangements made with the Reserve Bank, been permitted to retain such sale proceeds with his agents or branches outside India and to utilise the same for purposes specified by

the Reserve Bank in this behalf, to the extent to which and on the date on which the amount of such proceeds has been accounted for to the satisfaction of the Reserve Bank in accordance with the Foreign Exchange Regulation Act, 1947, and the rules made thereunder

(2) The authorised dealer through whose medium the relevant bills or shipping documents are negotiated or sent for collection shall, after he receives the sale proceeds in India as specified in clause (*i*) of sub-paragraph (1) and upon application by the person who exported the goods or merchandise, give intimation to that effect to the competent officer in Form B and shall also send a copy thereof to the applicant

(3) Where a person receives the sale proceeds in India as specified in clause (*ii*) of sub-paragraph (1), in respect of goods or merchandise exported out of India by him, the Reserve Bank shall, after the amount of such proceeds has been accounted for to its satisfaction as specified in that clause and upon application by the person who exported such goods or merchandise, give intimation to that effect to the competent officer in Form C and shall also send a copy thereof to the applicant

(4) Where a person has refunded or is liable to refund the whole or any part of the sale proceeds of any goods or merchandise, by reason of any claim arising out of the transaction relating to the export of such goods or merchandise, the sale proceeds received in respect thereof shall stand reduced by the amount of such refund or liability thereto

7. Application for certificate.—(1) Any person who has under paragraph 5 given notice of his intention to apply for a certificate in respect of the export of any goods or merchandise may, within ninety days from the date of the intimation under paragraph 6, apply to the competent officer on the basis of such intimation for the issue of the certificate in respect of the goods or merchandise so exported

Provided that the competent officer may admit the application after the expiration of the period aforesaid if he is satisfied that the person had sufficient cause for not making it within that period

(2) Every application under sub-paragraph (1) shall be in Form D and be verified in the manner indicated therein and be accompanied by the copy of the intimation aforesaid

8. Grant of certificate.—(1) The competent officer shall, after making such inquiry as he deems fit, by order determine the eligibility of the applicant for the certificate and the amount thereof

(2) Where the competent officer is satisfied that the applicant is so eligible, he shall grant the certificate in Form E for the amount determined by him under sub-paragraph (1) and forward the same to the applicant together with a copy of the order under that sub-paragraph

(3) Where as a result of the inquiry, the competent officer is satisfied that the applicant is not eligible for the grant of the certificate, he shall by order and for reasons to be recorded, reject the application and forward a copy of such order to the applicant

9. Appeal.—(1) Any person aggrieved by an order of the competent officer passed under paragraph 8 may appeal to the Director against such order

(2) Every appeal under sub-paragraph (1) shall be filed by the person aggrieved within ninety days of the date on which the order sought to be appealed against is served on him.

(3) Every appeal as aforesaid shall be in Form F and be accompanied by a copy of the order appealed against and where a certificate has been granted by the competent

officer, also by such certificate (in original) which shall be retained by the Director and dealt with in accordance with such order as he may pass under sub-paragraph (5)

(4) The Director may admit an appeal after the expiration of the period specified in sub-paragraph (2) if he is satisfied that the appellant had sufficient cause for not filing it within that period

(5) The Director may, after giving the appellant a reasonable opportunity of being heard, pass an order,—

(*a*) where the appeal is against an order rejecting the application for the certificate,—

(*i*) confirming the order appealed against, or

(*ii*) varying the said order and directing the competent officer to grant a certificate for an amount to be specified therein, or

(*iii*) setting aside the said order and directing the competent officer to make a fresh determination under paragraph 8,

(*b*) where the appeal is against an order granting a certificate,—

(*i*) confirming the order appealed against, or

(*ii*) varying the said order and directing the issue of a fresh certificate for an amount to be specified therein in lieu of the certificate already issued, or

(*iii*) setting aside the said order and directing the competent officer to make a fresh determination under paragraph 8, or

(*iv*) annulling the said order and cancelling the certificate issued

Provided that the Director shall not pass an order cancelling the certificate issued or directing the issue of a fresh certificate for a lesser amount than that for which the certificate was originally granted, unless the appellant has been given a reasonable opportunity of showing cause against such cancellation or direction

(6) The Director may, before disposing of any appeal, make such further inquiry as he thinks fit or direct the competent officer to make such inquiry and report the result thereof to him

(7) The Director may, where he considers necessary so to do, require the presence of the competent officer at the time of the hearing of the appeal

(8) An order passed by the Director under sub-paragraph (5) shall be final

(9) A copy of the order passed under sub-paragraph (5) or sub-paragraph (6), as the case may be, shall be given to the appellant

10. Production of certificate before the Income-tax Officer.—The Income-tax Officer before whom a certificate is produced shall grant a receipt in respect thereof in Form G and shall thereafter proceed to adjust the amount shown on the certificate, or refund such amount or part thereof, as the case may be, in accordance with the provisions of sub-section (4) of section 280ZC

11. Modification of orders and certificates under certain circumstances.—(1) With a view to rectifying any mistake apparent from the record, the Director may, by order in writing, amend any order passed by him under paragraph 9 and the competent officer may, by order in writing, amend any order passed by him under paragraph 8 and for the purpose aforesaid any order passed by a predecessor-in-office shall be deemed to be an order passed by him

(2) Any order under sub-paragraph (1) may be made by the Director or the competent officer, as the case may be, either on his own motion or on an application by the person in relation to whom the order was passed

(3) If—

(i) the competent officer has reason to believe that, by reason of the omission or failure on the part of the person to whom a certificate has been issued under this Scheme to disclose fully and truly all material facts necessary for making a correct determination under paragraph 8, the certificate has been issued for an amount in excess of the amount for which the certificate should have been issued, or

(ii) notwithstanding that there has been no omission or failure as mentioned in clause (i) on the part of such person, the competent officer has, in consequence of information in his possession, reason to believe that the certificate has been issued for an amount in excess of the amount for which the certificate should have been issued,

he shall, after making such inquiry as he deems fit, proceed to make a fresh determination under paragraph 8

(4) No order under sub-paragraph (1) which prejudicially affects any person to whom the certificate was originally issued and no order under sub-paragraph (3) shall be made unless the officer passing the order has given notice to such person of his intention so to do and has allowed such person a reasonable opportunity of being heard and a copy of every such order shall be sent to the said person

(5) With a view to giving effect to an order under sub-paragraph (1) or sub-paragraph (3), the competent officer may recall the certificate at any time after action under either of the said sub-paragraphs has been initiated and thereafter the certificate shall be dealt with in accordance with such order

(6) Where, in consequence of an order made under sub-paragraph (1) or sub-paragraph (3), the competent officer finds that the amount for which the certificate was originally issued to a person is in excess of the amount determined under the order aforesaid, he may set off the amount of such excess against the amount of any other certificate which has become due to the same person or require any other competent officer so to do

(7) Where at any time after action has been initiated under sub-paragraph (1) or sub-paragraph (3), the competent officer finds that the relevant certificate has already been produced before the Income-tax Officer and that—

(i) no adjustment or payment has been made in pursuance of sub-section (4) of section 280ZC, he may recall the certificate and deal with it in accordance with his order under either of the said sub-paragraphs,

(ii) a part of the amount covered by the certificate has been adjusted and the payment or adjustment of the balance has not been made under the provisions of the said sub-section, he may cancel the certificate in so far as it relates to the amount of such balance and thereafter, where necessary, issue a fresh certificate in accordance with his order under either of the said sub-paragraphs and where a certificate has been so cancelled, send an advice to that effect to the Income-tax Officer in Form H,

(iii) the whole of the amount covered by the certificate has been adjusted or paid under the aforesaid sub-section, or in a case falling under clause (ii) the amount already adjusted is in excess of the amount determined under the order aforesaid, he may, as soon as may be, forward to the Income-

tax Officer an authorisation in Form J specifying the sum by which the amount of the certificate originally issued or, as the case may be, the amount adjusted, exceeds the amount determined under the order aforesaid and on receipt of such authorisation the Income-tax Officer shall serve upon the person a notice of demand under section 156 for the amount specified therein as if it were a sum payable in consequence of any order passed under the Act and all the provisions of the Act shall apply accordingly

(8) A copy of the order passed by the competent officer under sub-paragraph (1) or sub-paragraph (3) shall be forwarded to the Director

12. Devolution or transfer of right in or title to certificate.—(1) Where, by reason of death, incapacity, insolvency or any other cause, an individual is unable to claim or receive a certificate to which he is eligible under this Scheme or to claim adjustment or refund of the whole or part of the amount of a certificate granted to him, his legal representative or guardian or the receiver, as the case may be, may claim or receive such certificate, adjustment or refund, for the benefit of such individual or his estate in accordance with the provisions of this Scheme as if the person claiming or receiving were such individual and all the provisions of this Scheme shall apply accordingly

(2) Where by reason of dissolution thereof, any firm or association of persons or body of individuals is unable to receive a certificate to which it is eligible under this Scheme, or to claim adjustment or refund of the whole or part of the amount of a certificate granted to it, every person who was a partner of such firm or member of such association or body immediately before its dissolution, may receive such certificate or claim adjustment or refund, for a portion of the amount for which the certificate is due or granted to such firm, association or body, calculated in accordance with the proportion in which such partner or member was entitled to share the profits immediately before such dissolution and all the provisions of this Scheme shall apply accordingly as if every such person is the person eligible for such certificate, adjustment or refund, as the case may be, in so far as it relates to such portion

(3) Where a Hindu undivided family eligible for grant of a certificate or for the adjustment or refund of the whole or part of the amount thereof is partitioned (whether totally or partially) and an order has been recorded by the Income-tax Officer under sub-section (3) of section 171 in respect of such family, every member or group of members thereof may receive such certificate or claim adjustment or refund for a portion of the amount for which the certificate is due or granted to the family, calculated in accordance with the proportion in which such member or group of members was entitled to share the assets of the family at the partition and all the provisions of the Scheme shall apply accordingly as if every such member or group of members is the person eligible for such certificate, adjustment or refund, as the case may be, in so far as it relates to such portion

(4) Notwithstanding anything contained in sub-paragraph (2) or sub-paragraph (3), the amount of a certificate granted to a partner of a firm or member of an association of persons or body of individuals or to a member or group of members of a Hindu undivided family under the said sub-paragraph shall, for the purpose of the adjustment under sub-section (4) of section 280ZC, be deemed to be the amount of a certificate granted to such firm, association or body or, as the case may be, such family.

13. Service of notices, orders and certificates.—All notices, orders and certificates issued by the Director or any competent officer under this Scheme may be addressed and served in the manner specified in section 282

14. Rendering of assistance.—For the purpose of the effective implementation of this Scheme, the Director or any competent officer may seek the assistance of any

authorised dealer or of any officer of the Government, the Reserve Bank or any other authority and such authorised dealer or officer shall be bound to render all reasonable assistance

15. **Issue of duplicate certificate.**—(1) In the event of loss or destruction of a certificate the amount shown whereon has not already been adjusted or refunded by the Income-tax Officer under section 280ZC, the competent officer may, on application made to him and after making such inquiry and subject to such conditions as he deems fit, issue a duplicate of such certificate

Provided that no such application for a duplicate shall be entertained after the expiry of one year from the date of the original certificate -

(2) Where a duplicate has been issued under sub-paragraph (1), it shall bear the endorsement "DUPLICATE OF CERTIFICATE BEARING BOOK NUMBER VOUCHER NUMBER DATED . VALID ONLY IF THE ORIGINAL HAS NOT BEEN ACTED UPON", and the original certificate, if and when discovered or produced thereafter, shall be of no effect.

APPENDIX

FORM A

[See paragraph 5 of the Tax Credit Certificate (Exports) Scheme, 1965]

Notice of intention to claim tax credit on exports

From

Name of exporter .. . .
Status (whether individual, firm, etc) . . . .
Address (including telegraphic address and telephone No) .
. . ..
Name of the Income-tax Circle/Ward/District in which latest assessment has been made . .. .

(N B —If no assessment has been made, give the name of the Circle/Ward/District within whose jurisdiction you fall)

To

The Dy Director/Asstt Director,
Tax Credit (Exports),

Dear Sir,

Whereas I/we have exported the goods, particulars of which are given below, to .. . . - through the Customs Station
(destination)
at . . .. and whereas tax credit will at the appropriate rate be admissible under section 280ZC of the Income-tax Act, 1961, on the sale proceeds of these goods when received in India in accordance with and within the meaning of the Tax Credit Certificate (Exports) Scheme, 1965;

Now, therefore, I/we give notice that on receipt of such sale proceeds as aforesaid I/we intend to apply for tax credit certificate in respect thereof:

Particulars of goods exported out of India

Name and description of goods exported and the serial No in the Table to para 3 to which it relates	Shipping bill/Bill of export No and date	Customs station and date of export under the Scheme	Quantity of goods		Amount of sale proceeds to be received in foreign exchange as aforesaid	G R. Form No
			Declared on the shipping bill/bill of export	Actually shipped		
(1)	(2)	(3)	(4)	(5)	(6)	(7)

I declare that,—

(1) sale proceeds in respect of the goods will be received through . . .. ,
(name and address of the authorised dealer)

(2) the goods have been exported on $\frac{\text{outright sale basis}}{\text{consignment account}}$,

(3) a copy of the bill of lading/other corresponding document . in respect of the goods exported, dated , issued by M/s agents of the vessel/aircraft/vehicle by which export has been effected, together with a copy of the relevant invoice duly certified by the authorised dealer, is enclosed

Yours faithfully,

. . ..

*(*Signature*)

*The declaration shall be signed by the person who in accordance with section 140 of the Income-tax Act, 1961, is empowered to sign and verify a return under section 139 thereof The capacity in which the declaration is signed should be indicated, for example, individual, firm, etc

FOR USE OF OFFICE

(Not to be filled by the applicant)

Acknowledged on . .. . . under reference No

Indexed on Shipping bill/Bill of export

requisitioned on checked by

Entered in ledger by on

(to be perforated)

Office of the Dy /Asstt Director, Tax Credit (Exports) .

Reference No (To be quoted in all future correspondence)

Notice has been received in this office from . of his/their intention to apply for tax credit certificate on the sale proceeds of his/their export of ..
(goods)
to covered by shipping bill No
(destination)
dated of Customs Station and
G R Form No .

Place

Date and Seal

(*Signature*)

(*Designation*)

FORM B

[See paragraph 6(2) of the Tax Credit Certificate (Exports) Scheme, 1965]

Intimation of receipt of sale proceeds by authorised dealer

Reference No

Reference No and date of earlier intimation, if any, in respect of the same export

From

(name of the authorised dealers)

(address)

To

The Dy /Asstt Director,
Tax Credit (Exports),

It is hereby certified that the amount of sale proceeds as specified in column 2 of the Table below has been received [within the meaning of the Tax Credit Certificate (Exports) Scheme, 1965] in an approved manner in accordance with the Foreign Exchange Regulation Act, 1947, and the rules made thereunder, in respect of
(description and quantity of goods)
exported by through
(name and address)
to . covered by
(customs station of export) (destination)
invoice No and shipping bill/bill of export No
dated and G R /E P /P P Form No

Further particulars relating to the receipt of sale proceeds are as stated in the Table hereunder —

TABLE

Bill of lading, postal receipt and/or railway receipt No & date	Amount of sale proceeds now received		F O B / F O R* value of goods	If the amount now received is a part payment—		
	Foreign currency	Rupee equivalent		Amount received earlier	Date(s) of intimation(s) in respect of amount mentioned in column (a)	Amount yet to be received
	(a)	(b)		(a)	(b)	(c)
(1)	(2)		(3)	(4)		

*Where value is F O R , exclude and indicate separately railway freight, if any

Place *Signature*

Date and Seal *Designation*

Copy to the exporter

FORM C

[See paragraph 6(3) of the Tax Credit Certificate (Exports) Scheme, 1965]

Intimation of receipt of sale proceeds by the Reserve Bank

Place

Date

From

(R B I)

(address)

To

The Dy /Asstt Director,
Tax Credit (Exports)

Dear Sir,

Whereas . has/have declared his/their export out of India mentioned below on the appropriate form referred to hereunder and whereas the foreign exchange proceeds in respect thereof have been realised and accounted for

to our satisfaction in accordance with the Foreign Exchange Regulation Act, 1947, and the rules made thereunder, we hereby issue intimation to that effect.

G R /E P Series and Form No	Shipping bill No & date	Description and quantity of goods	Destination	Amount of sale proceeds	F O B value of the goods
(1)	(2)	(3)	(4)	(5)	(6)
.					

Yours faithfully,
Dy /Asstt Controller

Copy to the exporter

FORM D

[See paragraph 7 of the Tax Credit Certificate (Exports) Scheme, 1965]

Application for Tax Credit Certificate (Exports)

Made to the competent officer [Deputy/Assistant Director, Tax Credit (Exports)]

Name of the exporter ..

Status . .
(whether individual, firm, etc)

Address (including telephone No and telegraphic address) .

Name of the Income-tax Circle/Ward/District in which latest assessment has been made .. . .

(N B —If no assessment has been made, give the name of the Circle/Ward/District within whose jurisdiction you fall)

1 Date of notice under paragraph 5 of the Scheme
2 Number and date of acknowledgment of notice
3 Particulars of goods—

Shipping bill/ Bill of export number and date	Description of goods with relevant S No in Table to para 3	Quantity of goods	Customs station of export	Date of export	F O B / *F O R value	Customs rotation No of vessel/ vehicle by which the goods exported	Bill of lading/ Other document No and date	G R / E P / P.P Form number
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

4 Whether exported on outright sale basis/consignment account .

5 Particulars of sale proceeds—

Total amount of sale proceeds	Amount received under para. 6 of the Scheme in respect of which application for Tax Credit Certificate (T C C) has already been made	Particulars of T C.C already granted			Amount of sale proceeds for which T C C has not been applied for [deduct Col (2) from Col (1)]	Amount for which application for T C C is now made
		No	Date	Amount		
(1)	(2)	(3)	(4)	(5)	(6)	(7)

*Where value is F O R exclude and indicate separately amount of railway freight, if any

6 Name and address of the authorised dealer through whom amount against Col (7) of item 5 has been received .

OR

Approval No and date of the order of the Reserve Bank for retaining it abroad

7 Date and amount as shown in intimation by the authorised dealer/Reserve Bank in respect of the amount specified against Col (7) of item 5 .

8 Particulars of adjustment of sale proceeds by way of remittances already made
(a) Amount
(b) *Reasons

9 Particulars of remittances out of the sale proceeds by way of adjustment thereof likely to be made
(a) Amount
(b) *Reasons

10. Claim for tax credit—

(a) Brief description of goods

(b) Rate at which T C C is to be granted

(c) Amount of sale proceeds in respect of which present application is made

(d) Amount of tax credit claimed . ..

I/We declare that,—

(i) to the best of my/our knowledge and belief, the information given above is truly stated, correct and complete;

(ii) I/we have understood the provisions contained in the Scheme and agree to abide by the same, and

(iii) I am/we are aware that any Certificate granted to me/us or refund or adjustment allowed in pursuance thereof shall be subject to the provisions of the Scheme and in particular paragraph 11 of the Scheme and I/we agree to abide by it

The copy of the intimation under paragraph 6 received by me/us from the Authorised Dealer/Reserve Bank is enclosed as required under the Scheme

**(*Signature*)

Place *Full name* . . . . . .

Date . *Status in relation to the exporter* . . . .

---

*Please furnish reasons for such remittances in a separate sheet

**The declaration shall be signed by the person who in accordance with section 140 of the Income-tax Act, 1961, is empowered to sign and verify a return under section 139 thereof The capacity in *which the declaration is signed should be indicated, for example, individual, firm, etc*

COUNTERFOIL FORM E

[See paragraph 8 of the Tax Credit Certificate (Exports) Scheme, 1965]

Tax Credit Certificate (Exports)

NATIONAL EMBLEM

GOVERNMENT OF INDIA

Certificate not negotiable

Book No Voucher No

Office of the Dy /Asstt Director, Tax Credit (Exports),

Certificate issued to

(name and address)

Amount of tax credit certified Rs

Reference No

Shipping bill / Bill of export No date of Customs Station

Goods exported

Destination

G R./E P /P P Form No

Rate of tax credit

Date of issue

Audit

Total sale proceeds Rs

Tax credit admissible on the total sale proceeds @ Rs

Amount for which T C C was previously granted against the same export Rs

Amount for which T C C is now granted Rs

No , date and amount of bank intimation in respect of which T C C is now granted

Certificate examined and found correct

Date

(*Auditor*)

FOIL FORM E

[See paragraph 8 of the Tax Credit Certificate (Exports) Scheme, 1965]

Tax Credit Certificate (Exports)

NATIONAL EMBLEM

GOVERNMENT OF INDIA

Certificate not negotiable

Book No Voucher No

Office of the Dy /Asstt Director, Tax Credit (Exports),

Whereas .

has/have received the sale proceeds in India in accordance with and within the meaning of the Tax Credit Certificate (Exports) Scheme, 1965, in respect of his/their export of (goods) to . (destination) covered by shipping bill/bill of export No dated of Customs Station

Now, therefore, it is certified that in respect of the said export he is/they are entitled to a tax credit of Rs (Rupees) under section 280ZC of the Income-tax Act, 1961, read with the said Scheme

Competent Officer
[Dy /Asstt Director, Tax Credit Certificate (Exports)]

Place
Date and Seal

(To be filled by the Income-tax Office)

The amount shown on the obverse has been dealt with as under —

(a) Adjusted against tax/penalty/interest/other sums outstanding for assessment year

19	-19	Rs	(on	date)
19	-19	Rs	on	
19	-19	Rs		
19	-19	Rs		

TOTAL Rs

(b) Refunded under I T Refund Voucher No
Book No Rs

GRAND TOTAL Rs *

Signature
Income-tax Officer
Circle/Ward/District

*This should tally with the amount shown on the obverse

[To be filled by the Tax Credit Certificate (Exports) Office on receipt of advice of adjustment]

The amount shown on the obverse has been dealt with as under —

(a) Adjusted against tax/penalty/interest/other sums outstanding for assessment year

19	-19	Rs	(on	date)
19	-19	Rs	on	
19	-19	Rs		
19	-19	Rs		

TOTAL Rs

(b) Refunded under I T Refund Voucher No
Book No Rs

GRAND TOTAL Rs *

Signature
Income-tax Officer
Circle/Ward/District

*This should tally with the amount shown on the obverse

FORM F

[See paragraph 9 of the Tax Credit Certificate (Exports) Scheme, 1965]

Appeal to the Director, Tax Credit (Exports)

1 Name and address of the appellant
2 Name of the exporter on the shipping bill
3 No and date of the order appealed against
Order
(i) passed by
(ii) served on the appellant on
4 No and date of the certificate (if any) in respect of which the appeal is made
5 Date of export as defined in the Scheme
6 Destination of export
7 Description of goods (with relevant serial number in Table to paragraph 3)
8 Quantity exported
9 Value of goods exported
10 Amount of sale proceeds realised
11 Amount, if any, of sale proceeds refunded or liable to be refunded to the buyer
12 Whether personal hearing is desired
13 *Grounds of appeal
14 Relief claimed in appeal

A copy of the order appealed against and the certificate in original bearing No dated . in respect of which the appeal is filed, are attached

(*Signature of appellant*)

VERIFICATION

I/We the appellant(s) do hereby declare that what is stated above is true to the best of my/our information and belief

(Signature of the appellant)

Place *Full name* . . . . . .

Date *Status in relation to the exporter* . . . .

NOTE—The form of appeal as completed above should be sent in duplicate
*If the space provided herein is insufficient, separate enclosures may be used for the purpose

FORM G

[See paragraph 10 of the Tax Credit Certificate (Exports) Scheme, 1965]

Receipt for certificate produced before the Income-tax Officer

Received from (name and address) Tax Credit Certificate (Exports) Book No Voucher No dated . issued by Dy /Asstt Director, Tax Credit (Exports), (place) . for Rs (Rupees)

Place *(Signature of Income-tax Officer)*

Date and Seal *Name of Income-tax Circle/Ward/District*

FORM H

[See paragraph 11(7)(*ii*) of the Tax Credit Certificate (Exports) Scheme, 1965]

The advice of cancellation

From

Dy /Asstt Director,
Tax Credit (Exports),

To

The Income-tax Officer,

Whereas a tax credit certificate (book No . voucher No dated) for an amount of rupees (rupees in words) has been granted to (name and address)

And whereas action has been initiated by me under sub-paragraph (1) and/or sub-paragraph (3) of paragraph 11 of the Tax Credit Certificate (Exports) Scheme, 1965, and it is understood that part of the amount covered by the said certificate has been adjusted and the balance remains to be adjusted or paid under sub-section (4) of section 280ZC of the Income-tax Act,

Now, therefore, in exercise of the powers conferred on me under clause (*ii*) of sub-paragraph (7) of paragraph 11 of the said Scheme, I have cancelled the certificate in so far as it relates to the entire balance which remains unadjusted or unpaid and hereby advise you accordingly about the cancellation

Place . *Competent Officer*
Date and Seal .. . *Dy /Asstt Director,*
Tax Credit (Exports)

FORM J

[See paragraph 11(7)(*iii*) of the Tax Credit Certificate (Exports) Scheme, 1965]

Authorisation by Deputy/Assistant Director, Tax Credit (Exports)

To

The Income-tax Officer,

. . . . . .

Whereas tax credit certificate No dated for an amount of Rs . . (Rupees ..) has been granted to .. .. . . against the receipt of sale (name and address) proceeds in India of Rs . (Rupees) on his/their export of . . to . and the (goods) (destination) amount of the said certificate has been adjusted and/or paid,

And whereas, in accordance with the determination under paragraph 11 read with paragraph 8 of the Tax Credit Certificate (Exports) Scheme, 1965, the amount adjusted and/or paid is not due/exceeds the amount determined as aforesaid by Rs . (Rupees),

Now, therefore, you are hereby authorised under paragraph 11(7)(*iii*) of the said Scheme to realise the amount of Rs . (Rupees) from . in accordance with the said provision.

Competent Officer
Deputy/Assistant Director,
Tax Credit (Exports),

Place .

Date and Seal . .. ..

THE TAX CREDIT CERTIFICATE (EXCISE DUTY ON EXCESS CLEARANCE) SCHEME, 1965

(*Notification No G S R 1636, dated 5th November 1965*)

In exercise of the powers conferred by section 280ZE read with section 280ZD of the Income-tax Act, 1961 (XLIII of 1961), and all other powers enabling it in this behalf the Central Government hereby makes the following Scheme, namely —

1. Short title and commencement.—(1) This Scheme may be called the Tax Credit Certificate (Excise Duty on Excess Clearance) Scheme, 1965.

(2) It shall come into force on the 1st day of December, 1965.

2. **Definitions.**—(1) In this Scheme, unless the context otherwise requires,—

(*a*) "Act" means the Central Excises and Salt Act, 1944 (I of 1944),

(*b*) "Appellate Authority" means the Director of Inspection, Customs and Central Excise, New Delhi, and includes any officer who may be appointed by the Central Government for the purpose of deciding any appeal or class of appeals under this Scheme,

(*c*) "Central Authority" means the Deputy Director of Inspection, Customs and Central Excise, New Delhi,

(*d*) "certificate" or "tax credit certificate" means a tax credit certificate referred to in section 280ZD of the Income-tax Act, 1961 (XLIII of 1961),

(*e*) "Circle Officer" means an officer of a rank not lower than Superintendent of Central Excise who is in supervisory charge of the Factory Officer,

(*f*) "Factory Officer" means a Central Excise Officer as defined in the Act who is in immediate charge of the factory in which the goods are manufactured or produced,

(*g*) "Form" means a form set out in Schedule II to this Scheme,

(*h*) "goods" means any excisable goods in respect of which a tax credit certificate can be granted under this Scheme,

(*i*) "paragraph" means a paragraph of this Scheme and "sub-paragraph" means a sub-paragraph of the paragraph in which the word occurs,

(*j*) "person" has the same meaning as in the Income-tax Act, 1961 (XLIII of 1961),

(*k*) "Rules" means the Central Excise Rules, 1944.

(2) All other words and expressions used herein and not defined, but defined in the Act or the Rules, shall have the same meanings respectively assigned to them in the Act or the Rules, as the case may be

3. **Goods and rates of tax credit.**—Subject to the provisions of this Scheme, a certificate shall be granted in respect of any class of goods specified in column (2) of Schedule I to this Scheme and falling under the item specified in the corresponding entry in column (3) thereof for the amount calculated at the rate specified in the corresponding entry in column (4) of the said Schedule

4. **Computation of base-year clearances in certain cases.**—When any person begins to manufacture or produce any goods in a factory after the 1st day of April in the base year, the quantum of goods deemed to have been cleared in that year for the purpose of determining the amount of the certificate for or in respect of any relevant financial year, shall be one-half of the quantum of the goods actually cleared during the period of twelve months commencing on and from the date of first clearance of the said goods on payment of duty of excise in accordance with the Act and the Rules

5. **Application for issue of tax credit certificate.**—(1) Any person eligible for the grant of a certificate in respect of any class of goods may make an application to the Central Authority in Form A in respect of each financial year for which he is so eligible and such application shall be accompanied by a Declaration in Form B of the goods cleared or deemed to have been cleared in the base year and the goods cleared in the relevant financial year, verified by the Factory Officer and countersigned by the Circle Officer

Provided that where any person owns more than one factory manufacturing or producing the same class of goods, then the application in Form A shall be accompanied by a Declaration in Form B in respect of each such factory for the base year and the relevant financial year

(2) Every application in Form A for a certificate for any financial year shall be presented to the Central Authority on or before the thirtieth of June following the last day of that financial year

(3) The Central Authority may, if satisfied that the applicant had sufficient cause for not presenting the application in Form A in time, condone any delay in presenting the application for a period not exceeding sixty days

6. Grant of certificate.—(1) The Central Authority may, after making such inquiry as it deems fit, by order determine the eligibility of the applicant for the certificate and the amount thereof

(2) Where the Central Authority is satisfied that the applicant is so eligible, it shall grant the certificate in Form C for the amount determined by it under sub-paragraph (1) and forward the same to the applicant together with a copy of the order under that sub-paragraph

(3) Where as a result of the inquiry, the Central Authority is satisfied that the applicant is not eligible for the grant of the certificate, it may, by order and for reasons to be recorded therein, reject the application and forward a copy of such order to the applicant

7. Period for using amount of certificate.—The period referred to in the proviso to sub-section (5) of section 280ZD of the Income-tax Act, 1961 (XLIII of 1961), shall be a period of three consecutive financial years commencing with the financial year in respect of which the certificate is granted

8. Production of certificate before the Income-tax Officer.—(1) When a person who has been granted a certificate in accordance with paragraph 6 desires to get the amount of the said certificate adjusted or, as the case may be, refunded, he shall produce the certificate along with a statement in Form D before the Income-tax Officer who shall grant a receipt in respect thereof in Form E

(2) The Income-tax Officer shall thereafter proceed to adjust or, as the case may be, refund the amount shown in the certificate, in accordance with the provisions of sub-section (5) of section 280ZD of the Income-tax Act, 1961 (XLIII of 1961)

9. Appeal.—(1) Any person aggrieved by an order of the Central Authority passed under paragraph 6 may appeal to the Appellate Authority against such order

(2) Every appeal under sub-paragraph (1) shall be filed by the person aggrieved within ninety days of the date on which the order sought to be appealed against is served on him and in a case where the appeal is against an order granting a certificate, it shall be filed within the aforesaid period and also before the certificate granted is produced before the Income-tax Officer for such adjustment or refund as is provided for in sub-section (5) of section 280ZD of the Income-tax Act, 1961 (XLIII of 1961)

(3) Every appeal as aforesaid shall be in Form F and be accompanied by a copy of the order appealed against and where a certificate has been granted by the Central Authority, also by such certificate (in original) which shall be retained by the Appellate Authority and dealt with in accordance with such order as the Appellate Authority may pass under sub-paragraph (5)

(4) The Appellate Authority may admit an appeal after the expiration of the period specified in sub-paragraph (2) if it is satisfied that the appellant had sufficient cause for not filing it within that period

(5) The Appellate Authority may, after giving the appellant a reasonable opportunity of being heard, pass an order,—

(*a*) where the appeal is against an order rejecting the application for the certificate,—

(*i*) confirming the order appealed against, or

(*ii*) setting aside the said order and directing the Central Authority to grant a certificate for an amount to be specified therein, or

(*iii*) setting aside the said order and directing the Central Authority to make a fresh determination under paragraph 6,

(*b*) where the appeal is against an order granting a certificate,—

(*i*) confirming the order appealed against, or

(*ii*) varying the said order and directing the issue of a fresh certificate for an amount to be specified therein in lieu of the certificate already issued, or

(*iii*) setting aside the said order and directing the Central Authority to make a fresh determination under paragraph 6, or

(*iv*) setting aside the said order and cancelling the certificate issued.

Provided that the Appellate Authority shall not pass an order cancelling the certificate issued or directing the issue of a fresh certificate for a lesser amount than that for which the certificate was originally granted, unless the appellant has been given a reasonable opportunity of showing cause specifically against such cancellation or direction

(6) Where the Appellate Authority confirms an order granting a certificate, it shall return the certificate to the appellant and where it passes any other order, it shall cancel the certificate

(7) The Appellate Authority may, before disposing of any appeal, make such further inquiry as it thinks fit or direct the Central Authority to make such inquiry and report the result thereof to the Appellate Authority

(8) The Appellate Authority may, where it considers it necessary so to do, require the presence of the Central Authority at the time of the hearing of the appeal

(9) A copy of the order passed under sub-paragraph (5) shall be given to the appellant

10. Modification of orders and certificates under certain circumstances.— (1) Clerical or arithmetical mistakes in any order passed by the Central Authority under paragraph 6 or by the Appellate Authority under paragraph 9, or errors arising therein from any accidental slip or omission may, at any time, be corrected by the Central Authority or the Appellate Authority, as the case may be, either on its own motion or on application by the person in relation to whom the order was passed

(2) If—

(*i*) the Appellate Authority has reason to believe that, by reason of the omission or failure on the part of the person to whom a certificate has been issued under this Scheme to disclose fully and truly all material facts

necessary for making a correct determination under paragraph 6, the certificate has been issued for an amount in excess of the amount for which the certificate should have been issued, or

(*ii*) notwithstanding that there has been no omission or failure as mentioned in clause (*i*) on the part of such person, the Appellate Authority has, in consequence of information received by it or otherwise, reason to believe that the certificate has been issued for an amount in excess of the amount for which the certificate should have been issued,

it shall, after making such inquiry as it deems fit, cancel the certificate already issued and either direct the issue of a fresh certificate for an amount to be specified therein in lieu of the certificate already issued, or direct the Central Authority to make a fresh determination under paragraph 6.

(3) No order under sub-paragraph (2) shall be made unless the Appellate Authority has given notice to the person to whom a certificate was originally issued of its intention so to do and has allowed such person a reasonable opportunity of being heard.

(4) The Central Authority or the Appellate Authority may recall the certificate immediately on commencement of action under sub-paragraph (1) or sub-paragraph (2) or at any time thereafter and the certificate so recalled shall be dealt with in accordance with such order as may be passed under that sub-paragraph.

(5) Where in pursuance of action taken under sub-paragraph (1) or sub-paragraph (2), it is found that the amount for which a certificate was originally issued to a person is in excess of the amount finally determined, the Central Authority may set off the amount of such excess against the amount of any other certificate which has become due to the same person.

(6) Where at any time after action has been initiated under sub-paragraph (1) or sub-paragraph (2), the Central Authority or the Appellate Authority finds that the relevant certificate has already been produced before the Income-tax Officer and that

(*i*) no adjustment or payment has been made in pursuance of sub-section (5) of section 280ZD of the Income-tax Act, 1961 (XLIII of 1961), it may recall the certificate and deal with it in accordance with the order under either of the said sub-paragraphs;

(*ii*) a part of the amount covered by the certificate has been adjusted and the payment of the balance has not been made under the provisions of the said sub-section, it may cancel the certificate in so far as it relates to the amount of such balance and thereafter, where necessary, issue or cause to be issued a fresh certificate in accordance with the order under either of the said sub-paragraphs;

(*iii*) the whole of the amount covered by the certificate has been adjusted or paid under the aforesaid sub-section, or in a case falling under clause (*ii*) the amount already adjusted is in excess of the amount finally determined under the order aforesaid, the Central Authority may on its own motion or, as the case may be, if so required by the Appellate Authority, forward to the Income-tax Officer an authorisation in Form G for an amount equal to the sum by which the amount of the certificate originally issued, or as the case may be, the a[illegible]justed, exceeds the amount finally determined and on receipt [illegible]thorisation, the Income-tax Officer shall serve upon the perso[illegible] of demand under section 156 of the Income-tax Act, 1961 (X[illegible], for the amount specified th

as if it were a sum payable in consequence of any order passed under the said Act and all the provisions of the said Act shall apply accordingly

(7) Notwithstanding anything contained in sub-paragraphs (5) and (6), where it is found that the amount for which the certificate was originally issued to a person is in excess of the amount finally determined by a sum not exceeding rupees one hundred, the Central Authority or, as the case may be, the Appellate Authority may require the said person by a written demand in Form "H" to pay the excess amount by making a cash deposit into the treasury under the Head of the Account shown in the demand within 10 days of the receipt of the demand

11. Devolution or transfer of right in or title to certificates.—(1) Where by reason of incapacity, insolvency or any other cause, an individual is unable to claim or receive a certificate to which he is eligible under this Scheme or to claim adjustment or refund of the whole or part of the amount of a certificate granted to him, or where an individual entitled to claim or receive a certificate or, as the case may be, to claim adjustment or refund as aforesaid, dies, his guardian or the receiver, or legal representative, as the case may be, may claim or receive such certificate, adjustment or refund, for the benefit of such individual or his estate in accordance with the provisions of this Scheme as if the person claiming or receiving were such individual and all the provisions of this Scheme shall apply accordingly

(2) Where by reason of dissolution thereof, any firm or association of persons or body of individuals is unable to claim or receive a certificate to which it is eligible under this Scheme, or to claim adjustment or refund of the whole or part of the amount of a certificate granted to it, the persons who were its partners or members immediately before its dissolution, may claim or receive such certificate, adjustment or refund, for an amount calculated in accordance with the proportion in which they were entitled to share the profits immediately before such dissolution and all the provisions of this Scheme shall apply accordingly as if every such person were the person eligible for such certificate, adjustment or refund, as the case may be, in so far as it relates to such share

(3) Where a Hindu undivided family eligible for grant of a certificate or for the adjustment or refund of the whole or part of the amount thereof is partitioned (whether totally or partially) and an order has been recorded by the Income-tax Officer under sub-section (3) of section 171 of the Income-tax Act, 1961 (XLIII of 1961), in respect of such family, every member thereof may claim or receive such certificate, adjustment or refund calculated in accordance with the proportion in which they were entitled to share the assets of the family at the partition and all the provisions of the Scheme shall apply accordingly as if such member were the person eligible for such certificate, adjustment or refund, as the case may be, in so far as it relates to such share

12. Service of notices, orders and certificates.—All notices, orders and certificates issued by the Appellate Authority or the Central Authority under this Scheme may be addressed and served in the manner specified in section 282 of the Income-tax Act, 1961 (XLIII of 1961), for the service of notice

13. Power to obtain information from Central Excise Officers.—For purposes of any inquiry under this Scheme, the Central Authority or the Appellate Authority may require officers of the Central Excise Department to furnish any information, return or report which the Central Authority or the Appellate Authority may consider necessary

14. Issue of duplicate certificate.—(1) In the event of loss or destruction of a certificate the amount shown whereon has not already been adjusted or refunded by the Income-tax Officer under section 280ZD of the Income-tax Act, 1961 (XLIII of

1961), the Central Authority may, on application made to it and after making such inquiry as it deems fit, issue a duplicate of such certificate·

Provided that no such application for a duplicate shall be entertained after the expiry of one year from the date of the original certificate

(2) Where a duplicate has been issued under sub-paragraph (1), it shall bear the following endorsement in red ink, namely, "Duplicate—Valid only if the original has not been acted upon", and the original certificate, if and when discovered or produced thereafter, shall be of no effect, shall be cancelled and returned to the Central Authority.

SCHEDULE I

[See paragraph 3]

Sl No	Class of goods	Item No in the First Schedule to the Act	Rate, being the percentage of duty of excise payable on the quantum of goods cleared in the relevant financial year in excess of the quantum cleared or deemed to have been cleared in the base year
(1)	(2)	(3)	(4)
(1)	Soda Ash	14A	20%
(2)	Caustic Soda whether in solid form or in flakes or in the form of lye	14B	20%
(3)	Paper, all sorts, other than (*i*) newsprint, and (*ii*) boards, including paste-board, mill board, straw board, pulp board, card and coated board	17	15%
	Explanation—Newsprint referred to above shall be deemed to be paper containing mechanical wood pulp amounting to not less than fifty per cent of its fibre content		
(4)	Newsprint referred to in Sl No (3)	17	25%
(5)	Cement, all varieties	23	25%
(6)	Aluminium ingots manufactured from bauxite only or from alumina only or from both	27(*a*)	25%
	Explanation—If the person manufacturing such ingots converts a part or the whole of such ingots into other aluminium products, the weight of such aluminium products cleared shall be deemed to be the weight of ingots cleared and tax credit shall be allowed on that basis		

SCHEDULE II

FORM A

[See paragraph 5]

Central Excise Circle .. ..

Income-tax Circle . . . .

Application for tax credit certificate on excess clearance made during the financial year

1. Name and address of the manufacturer or producer
2. Status
   (whether individual, firm, etc)
3. Description of goods
4. Particulars of factories and clearances
   (A declaration in Form B should be attached in respect of each factory)

Sl No	Name and location of the factory	Base year	Clearances during the base year	Clearances during the financial year	Excess (+) or shortfall (—)	Remarks
1	2	3	4	5	6	7
1						
2						
3						
		TOTAL				

5. Rate at which the tax credit certificate is admissible
6. Amount for which the tax credit certificate is claimed
   (Where necessary, a work-sheet showing detailed calculations in respect of each factory should be atached)

I/We declare that,—

(i) to the best of my/our knowledge and belief, the information given above is true and complete,

(ii) I/we have not omitted particulars of any factory manufacturing . and owned by me/us,
(description of goods)

(iii) I/we have not so far lodged any claim for tax credit certificate in respect of ... . .cleared by any of the above factories
(description of goods)
during the financial year .. . . ,

(iv) I/we have understood the provisions contained in the Tax Credit (Excise Duty on Excess Clearance) Scheme, 1965, and agree to abide by the same, and

(v) I/we am/are aware that any certificate granted to me/us or refund or adjustment allowed in pursuance thereof shall be subject to the provisions of the said Scheme, and in particular paragraph 10 of the said Scheme, and agree to abide by it.

. . . .
*(*Signature*)

Place | *Full name* . . . . . .

Date . | *Status in relation to the manufacturer or producer* . . .

---

*The declaration shall be signed by the person empowered to sign and verify a return of income in accordance with section 140 of the Income-tax Act, 1961 The capacity in which the declaration is signed should be indicated, for example, individual, firm, etc

FORM B

[See paragraph 5]

ORIGINAL
DUPLICATE
TRIPLICATE
QUADRUPLICATE

Central Excise Sector/Range

Central Excise Circle . . .. ..

(Declaration of excess clearance)

1 Name and location of the factory

2 Central Excise licence No

3 Description of goods and the Central Excise Tariff item and sub-item under which they are assessable

4 (*a*) Base year

(*b*) Dates of commencement of production and first clearance in the case of factories governed by paragraph 4

5 Relevant financial year for which tax credit certificate is claimed

6 (*a*) Clearances made during the base year—

(*i*) for home consumption

(*ii*) for export

(*iii*) Total

(*b*) (In the case of factories governed by paragraph 4) The quantum deemed to have been cleared during the base year, as arrived at in terms of that paragraph

7 Clearances during the relevant financial year—

(*i*) for home consumption—

(*a*) quantity cleared

(*b*) amount of duty paid

(*ii*) for export—

(*a*) quantity cleared

(*b*) duty payable if the entire quantity cleared for export had been cleared for home consumption

(*iii*) Total quantity cleared

8 Excess or shortfall in clearances (Column 7(iii) minus column 6(a)(iii) or 6(b) as the case may be)

NOTE—If in respect of any class of goods, the duty of excise is payable at varying rates depending upon the variety of such goods, the information in respect of items numbers 6, 7 and 8 shall be furnished separately for each such variety

9 Date on which the quantum cleared during the base year was exceeded during the relevant financial year

10 Effective rate(s) of basic Central Excise duty applicable to the above factory from time to time during the relevant financial year

11 Remarks

I/We declare that to the best of my/our knowledge and belief, the information given above is true

Place *Signature** . . . .

Date *Full name* . . . . .

Countersigned *Status in relation to the manufacturer or producer.* . ..

Circle Officer Verified with Central Excise records and found correct.

Factory Officer of Central Excise.

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*The declaration shall be signed by the person empowered to sign and verify a return of income in accordance with section 140 of the Income-tax Act, 1961 The capacity in which the declaration is signed should be indicated, for example, individual, firm, etc

COUNTERFOIL FORM C

[See paragraph 6]

Tax Credit Certificate (Excise Duty on Excess Clearance)

NATIONAL EMBLEM

GOVERNMENT OF INDIA

Certificate not negotiable

Book No Voucher No

Office of the Deputy Director of Inspection, Customs and Central Excise, New Delhi

1 Certificate issued to

(name and address)

2 Amount of tax credit certificate Rs

3 Reference No

4 Description of goods

5 Financial year in respect of which the certificate has been granted

FOIL FORM C

[See paragraph 6]

Tax Credit Certificate (Excise Duty on Excess Clearance)

NATIONAL EMBLEM

GOVERNMENT OF INDIA

Certificate not negotiable

Book No Voucher No

Office of the Deputy Director of Inspection, Customs and Central Excise, New Delhi

Whereas (name and address of the manufacturer or producer) has/have cleared during the financial year from his/their factory(ies) mentioned below (quantity) of (description of goods) in excess of the quantum of the said goods cleared or deemed to have been cleared from the said factory(ies) during the base year

6 (a) Quantity of excess clearance

(b) Duty payable thereon

7 Rate of tax credit

Audit

Certificate examined and found correct

Date

(*Auditor*)

Name and location of the factory(ies)

And whereas the duty of excise payable on the said goods cleared in excess amounts to

Rs

(Rupees)

And whereas he is/they are entitled to a tax credit at the rate of per cent on the said sum under section 280ZD of the Income-tax Act, 1961, read with the Tax Credit Certificate (Excise Duty on Excess Clearance) Scheme, 1965

Now, therefore, he is/they are hereby granted a tax credit certificate for Rs

(Rupees)

under the aforesaid provisions.

Deputy Director of Inspection, Customs and Central Excise, New Delhi

Seal

Place

Date

FORM D

[See paragraph 8]

Form of application for adjustment or refund of the amount of the certificate

To

The Income-tax Officer,

Sir,

I/We hereby apply for adjustment and/or refund of the amount of the certificate granted to me/us under section 280ZD The following particulars are furnished herewith

(1) Name and address in full

(2) Status (whether individual, H U F, company, etc)

(3) G I R No

(4) Financial year in respect of which the certificate has been granted

(5) Serial No and date of the certificate

(6) Designation of the competent officer who issued the certificate

(7) Amount of the certificate

(8) Details showing amount used for the purposes specified in the proviso to sub-section (5) of section 280ZD

	19 -19	19 -19	19 -19	Total
(i) Amount used for repayment of loans taken from any financial institution notified by the Central Government (Details as per Annexure)				
(ii) Amount used for the acquisition of any capital asset in India including the construction of any building, for the purposes of the business (Details as per Annexure)				
(iii) Amount used for redemption of debentures (Details as per Annexure)				
Total				

I/We hereby declare that what is stated in this application is correct

Date *Signature* . .

Place *Address*

FORM E

[See paragraph 8]

Receipt for certificate produced before the Income-tax Officer

Received from . .. .
(name and address)
Tax Credit Certificate Book No. . Voucher No. . . .
dated . issued by the Deputy Director of Inspection, Customs and Central Excise, New Delhi, for Rs. . . . . .

Place .. ..

Date . . (*Signature of Income-tax Officer*)

COURT FEE STAMP

FORM F

[See paragraph 9]

Appeal to the Director of Inspection, Customs and Central Excise, New Delhi

1 Name and address of the applicant(s)

2 No and date of the order appealed against

3 Date on which the order appealed against was served on the appellant(s)

4 Explanation for delay if the appeal has not been filed within the time-limit specified in sub-paragraph (2) of paragraph 9

5 No and date of the certificate in respect of which the appeal is made

6 Description of goods (with relevant serial number in Schedule I)

7 Base year

8 Quantity cleared or deemed to have been cleared during the base year

9 Relevant financial year
10 Quantity cleared during the relevant financial year
11 Whether personal hearing is desired
12 *Grounds of appeal
13 Relief claimed in appeal

---

*If the space provided herein is insufficient, separate enclosures may be used for the purpose

A copy of the order appealed against bearing court fee stamp of . . paise and the Certificate in original bearing Book No . Voucher No . dated .. in respect of which the appeal is filed, are attached

(*Signature of appellant*)

Verification

I/We the appellant(s) do hereby declare that what is stated above is true to the best of my/our information and belief

Place .

Date .. (*Signature of appellant*)

Full name
Status in relation to the manufacturer or producer

NOTE —The form of appeal as completed above should be in duplicate

FORM G

[See paragraph 10(6)(*iii*)]

Authorisation by the Deputy Director of Inspection, Customs and Central Excise, New Delhi

To

The Income-tax Officer,

. . .

Whereas tax credit certificate Book No .. Voucher No dated for an amount of Rs .. (Rupees) has been granted to ..
(name and address)
under paragraph 6 of the Tax Credit Certificate (Excise Duty on Excess Clearance) Scheme, 1965, and the amount of the said certificate has been adjusted and/or paid,

And whereas, in accordance with the determination under paragraph 10 read with paragraph 6 of the said Scheme, the amount adjusted and/or paid is not due/exceeds the amount determined as aforesaid by Rs (Rupees),

Now, therefore, you are hereby authorised under paragraph 10(6)(*iii*) of the said Scheme to realise the amount of Rs . (Rupees) from . . . in accordance with the said provision

Place . *Deputy Director of Inspection, Customs*
Date and Seal . *and Central Excise, New Delhi*

FORM H

[See paragraph 10(7)]

Demand for refund of excess amount

To

M/s

Dear Sir,

Whereas Tax Credit Certificate Book No , Voucher No . dated , for an amount of Rs (Rupees) was granted to you under paragraph 6 of the Tax Credit Certificate (Excise Duty on Excess Clearance) Scheme, 1965,

And whereas, in accordance with the determination under paragraph 10 read with paragraph 6 of the said Scheme, the amount of the Certificate issued to you exceeds the amount determined as aforesaid by Rs. (Rupees),

Now, therefore, you are hereby required under sub-paragraph (7) of paragraph 10 of the said Scheme to deposit the said amount of Rs .. into the Treasury under the Head of the Account within 10 days of the receipt of this letter of demand

Yours faithfully,

THE TAX CREDIT CERTIFICATE (EQUITY SHARES) SCHEME, 1965

(*Notification No G S R. 1834, dated 9th December 1965*)

In exercise of the powers conferred by section 280ZE of the Income-tax Act, 1961 (XLIII of 1961), read with section 280Z thereof and of all other powers enabling it in this behalf, the Central Government hereby makes the following Scheme, namely —

1. Short title and commencement.—(1) This Scheme may be called the Tax Credit Certificate (Equity Shares) Scheme, 1965

(2) It shall come into force on the 1st day of March, 1966

2. Definitions.—In this Scheme, unless the context otherwise requires,—

(*1*) "Act" means the Income-tax Act, 1961 (XLIII of 1961),

(*2*) "authorised bank" means a bank which is for the time being included in the Second Schedule to the Reserve Bank of India Act, 1934 (II of 1934), or a State co-operative bank as defined in clause (*f*) of section 2 thereof,

(*3*) "authorised officer" means an officer to whom any power or duty of the Central Government has been delegated under section 10 of the Capital Issues (Control) Act, 1947 (XXIX of 1947),

(*4*) "certificate" means a tax credit certificate referred to in section 280Z,

(*5*) "competent officer" means any officer of the Reserve Bank of India at Bombay, Calcutta, Madras or New Delhi who is authorised as such by the said Bank,

(*6*) "Form" means a form set out in the Appendix hereto,

(*7*) "ordinary shares" means equity shares within the meaning of the Companies Act, 1956 (I of 1956),

(*8*) "paragraph" and "sub-paragraph" mean, respectively, a paragraph and a sub-paragraph of this Scheme,

(*9*) "person" means an individual or a Hindu undivided family entitled to the grant of a certificate,

(*10*) "section" means a section of the Act,

(*11*) "subscribed" shall have the meaning assigned to it under section 280Z,

(*12*) "underwriter" in relation to an eligible issue of capital means a person who is specified in the relevant prospectus or statement in lieu of prospectus as an underwriter in pursuance of clause (*11*) of Part I of Schedule II to the Companies Act, 1956 (I of 1956)

3. Eligible issue of capital.—An issue of ordinary shares shall be deemed to be "an eligible issue of capital" under this Scheme if it satisfies the following conditions, namely —

(*a*) the issue is made by a public company formed and registered in India which is engaged or is to be engaged in the manufacture or processing of any of the articles specified in the First Schedule to the Industries (Development and Regulation) Act, 1951 (LXV of 1951), for the time being in force, and

(*b*) such issue is an initial issue of capital of an amount not less than twenty lakhs of rupees, and

(*c*) such issue is one in which a prospectus is issued, or a statement in lieu of prospectus is delivered to the Registrar of Companies, on or after the 24th day of December, 1964, but before the 1st day of April, 1970, and in cases where a prospectus has been issued or a statement in lieu of prospectus has been so delivered before the 24th day of December, 1964, the subscription list in respect of such issue has not been closed before the 24th day of December, 1964

Provided that an issue of ordinary shares shall not be deemed to be an eligible issue of capital if—

(*i*) any of the shares forming part of such issue is offered for subscription at a premium, or

(*ii*) any of the shares forming part of such issue is issued by way of consideration for the transfer of any asset or business (not including or comprising an element of goodwill of such asset or business, as the case may be) unless the consideration for such transfer is fixed at the book value of such asset or business as on the date of the transfer, or

(*iii*) any of the shares comprised therein is issued by way of consideration for the transfer of goodwill in relation to an asset or business

Explanation —"Initial issue of capital" means any issue of capital made for the first time by a public company, whether comprised in a single offer or in two or more offers, being,—

(*i*) in the case of an issue of capital for which consent is required to be obtained by a company under section 3 of the Capital Issues (Control) Act, 1947 (XXIX of 1947), the ordinary share capital specified in the relevant consent order made in favour of the company for the first time after its formation together with the ordinary share capital, if any, subscribed prior thereto,

(*ii*) in the case of an issue of capital for which consent is not required to be obtained by the company under the Act aforesaid, the ordinary share capital specified in the authorisation granted under paragraph 4

Provided that in the case of a company which had originally been incorporated as a private company but has become a public company under the provisions of the Companies Act, 1956 (I of 1956), an issue of ordinary shares made for the first time by it after it has so become a public company shall not constitute an initial issue of capital, if—

(*a*) such company had declared, distributed or paid any dividend when it was a private company, or

(*b*) such company has, when it was a private company, created in its books a goodwill of business or made any revaluation of its assets over the book value thereof, or

(*c*) such issue is for an amount which is less than the paid-up equity capital of the company as on the date of its becoming a public company

4. Authorisation of any issue as eligible issue of capital.—(1) Any public company which claims that an issue of ordinary shares made or proposed to be made by it is an eligible issue of capital, may apply to the authorised officer for an authorisation in that behalf

(2) Every application under sub-paragraph (1) shall be in Form A and be verified in the manner indicated therein and be accompanied by the memorandum and articles of association of the company and the last audited annual accounts and balance-sheet, if any, together with a copy of the prospectus or the statement in lieu of prospectus which has been or is proposed to be delivered to the Registrar of Companies for registration

(3) The authorised officer shall, after making such inquiry (including the obtaining of further particulars from the company) as he deems fit, determine whether the issue of capital in question is an eligible issue of capital or not

(4) Where the authorised officer determines under sub-paragraph (3) that the issue of capital is an eligible issue of capital, he shall grant an authorisation in Form B in respect of such issue and forward the same to the company

(5) Where the authorised officer determines that the issue of capital is not an eligible issue of capital, he shall, by order and for reasons to be recorded, reject the application and forward a copy of such order to the company

5. Modification of authorisation.—(1) Where an authorisation has been issued in favour of a public company under paragraph 4 and the company decides to issue capital for an amount which,—

(*i*) together with the ordinary share capital, if any, subscribed prior thereto, is less than the amount specified in the authorisation so issued, or

(*ii*) is less than twenty lakhs of rupees,

the authorisation issued in favour of such company shall be of no effect and the company shall refrain from making any announcement in the prospectus or statement in lieu of prospectus about such authorisation and forthwith return the authorisation to the authorised officer for a fresh authorisation where so required

(2) With a view to rectifying any mistake apparent from the record, the authorised officer may by order in writing amend any authorisation granted by him under

paragraph 4 and for the purpose aforesaid any order passed by a predecessor-in-office shall be deemed to be an order passed by him

(3) Any order under sub-paragraph (2) may be made by the authorised officer either on his own motion or on the application of the company in whose favour the authorisation was granted

(4) No order under sub-paragraph (2) which prejudicially affects any company in whose favour the authorisation was originally issued shall be made unless the authorised officer has given notice to the company of his intention so to do and has allowed it a reasonable opportunity of being heard and a copy of every such order shall be sent to the company

(5) With a view to giving effect to an order under sub-paragraph (2), the authorised officer may recall the authorisation at any time after action has been initiated under the said sub-paragraph and thereafter the authorisation shall be dealt with in accordance with such order

6. Duties of public company to which an authorisation is issued.—(1) Any public company in whose favour any authorisation has been issued under paragraph 4 may prominently display in the prospectus or statement in lieu of prospectus that the company has obtained an authorisation as aforesaid

(2) Every authorisation issued to the company under paragraph 4 shall be deemed to be a document available for inspection as if it were a document referred to under sub-section (1) of section 163 of the Companies Act, 1956 (I of 1956)

(3) Any public company in whose favour an authorisation has been issued in respect of an issue of capital which is an eligible issue of capital shall forward along with the share certificate,—

(*i*) to every shareholder who has been allotted any ordinary share forming part of such issue, on the allotment thereof,

(*ii*) to every individual who has applied for entering his name in the register of shareholders of the company in respect of any such share acquired by him from the underwriter, on the date when his name is so entered,

an intimation in Form C containing the particulars specified therein

6A. Transmission of intimation by registered shareholder to beneficial owner.—A registered shareholder of any share forming part of an eligible issue of capital who is not himself the beneficial owner of such share shall, in a case where the beneficial owner is an individual or a Hindu undivided family, transmit the intimation referred to in sub-paragraph (3) of paragraph 6 pertaining to the said share to such beneficial owner together with a certificate in Form C1

7. Appeal against the orders of the authorised officer.—(1) Any public company which is aggrieved by an order passed by an authorised officer under paragraph 4 or paragraph 5 may appeal against such order to the Central Government

(2) Every appeal under sub-paragraph (1) shall be filed by the company within ninety days of the date on which the order sought to be appealed against is received by it

(3) Every appeal as aforesaid shall be in Form D and be accompanied by a copy of the order appealed against

(4) The Central Government may admit an appeal after the expiration of the period specified in sub-paragraph (2) if it is satisfied that the company had sufficient cause for not filing it within that period

(5) The Central Government may, after giving the company a reasonable opportunity of being heard, pass such order as it deems fit

(6) The Central Government may, before disposing of any appeal, make such further inquiry as it considers necessary or direct the authorised officer to make such inquiry and report the result thereof to it.

(7) An order passed by the Central Government under sub-paragraph (5) shall be final

(8) A copy of the order passed under sub-paragraph (5) or sub-paragraph (6), as the case may be, shall be given to the appellant

8. Application to the competent officer through authorised bank.—(1) Any person who claims to be entitled to a certificate with reference to payments made by him or on his behalf towards one or more eligible issues of capital during a financial year may, as soon as may be after the close of the said financial year, make an application in Form E to the competent officer, through an authorised bank, for the grant of such certificate with reference to the aggregate of such payments in that financial year.

(2) Every application under sub-paragraph (1) shall be in triplicate and be verified in the manner indicated therein and be accompanied by the original share certificate relating to the issue in respect of which the certificate is claimed and the intimations referred to in sub-paragraph (3) of paragraph 6 pertaining to the said share certificate received by him from the company or, as the case may be, from the registered shareholder in pursuance of paragraph 6A

(3) Every authorised bank which receives an application under this paragraph shall, after satisfying itself that the application is correct and complete in all respects and is accompanied by the relevant documents, record a statement to that effect at the appropriate place in the application form, give an acknowledgment in Form El to the applicant and, after retaining one copy thereof, forward the application (in duplicate) together with the said documents to the competent officer.

(4) Any person who has made an application under sub-paragraph (1) shall not make any other application, through the same or any other authorised bank, for a certificate with reference to the same or any other payments made in that financial year to the same or any other eligible issue of capital

Provided that any person who discovers any omission or any wrong statement in an application made by him under sub-paragraph (1) may, if allowed by the competent officer to do so and subject to such conditions as he may deem fit to impose, furnish a revised application under that sub-paragraph

9. Grant of certificate by the competent officer.—(1) As soon as may be after the receipt of the application under paragraph 8, the competent officer shall, after making such inquiry as he may deem fit, by order, determine the eligibility of the applicant for the certificate and the amount thereof

(2) Where the competent officer is satisfied that the applicant is so eligible, he shall grant the certificate in Form F for the amount determined by him under sub-paragraph (1) and forward the same, together with a copy of the order made under that sub-paragraph and a copy of the application (and the documents which accompanied it) to the authorised bank (which had forwarded the application) for transmission to the applicant

(3) Where the competent officer is not satisfied about the eligibility of the applicant to the grant of the certificate he shall, by order made under sub-paragraph (1), reject the application for reasons to be recorded therein and forward a copy of the said order along with a copy of the application (and the documents which accompanied it)

to the authorised bank (which had forwarded the application) for transmission to the applicant

(4) Where a certificate is granted under sub-paragraph (2), the competent officer shall cause the following endorsement to be made on the relevant share certificate and on the intimation which accompanied the application, before returning them to the authorised bank under sub-paragraph (2), namely:—

"Tax credit certificate bearing Book No .. . Voucher No .... dated . . for Rs . (Rupees . .. .) granted with reference to payments made in the financial year 19 . . -19. in respect of the shares covered by this share certificate/intimation."

10. Transmission of the papers by the authorised bank.—The authorised bank which receives the certificate, if any, issued under paragraph 9 and the application and other documents referred to in that paragraph shall, as soon as may be after the receipt thereof, transmit the same to the applicant on his surrender of the acknowledgment issued to him under sub-paragraph (3) of paragraph 8.

11. Certificate in respect of subsequent financial years.—(1) Where any person, to whom a certificate has been granted with reference to the payments made by him to eligible issues of capital in any financial year, claims to be entitled to a certificate in respect of a subsequent financial year with reference to the same payments, he shall make an application in Form G to the competent officer through an authorised bank for the grant of such certificate and where the claim for a certificate in respect of any such subsequent financial year relates to payments as aforesaid made in more than one financial year, separate applications shall be made for the certificate with reference to such payments made in each of the said financial years.

(2) The provisions of paragraphs 8, 9 and 10 shall, as far as may be, apply in relation to an application under this paragraph as they apply in relation to an application under paragraph 8

12. Production of certificate before the Income-tax Officer.—The Income-tax Officer before whom a certificate is produced shall grant a receipt in respect thereof in Form H and shall thereafter proceed to adjust the amount shown on the certificate or refund such amount or part thereof, as the case may be, in accordance with the provisions of sub-section (6) of section 280Z

13. Appeal against the orders of the competent officer.—(1) Any person aggrieved by an order of the competent officer passed under paragraph 8 may appeal against such order to the Central Government or to such other authority as it may by notification in the Official Gazette specify in this behalf.

(2) Every appeal under sub-paragraph (1) shall be filed by the person aggrieved within ninety days of the date on which the order sought to be appealed against is received by him.

(3) Every appeal as aforesaid shall be in Form J and be accompanied by a copy of the order appealed against and where a certificate has been granted by the competent officer, also by such certificate (in original) which shall be retained by the appellate authority and dealt with in accordance with such order as that authority may pass under sub-paragraph (5).

(4) The appellate authority may admit an appeal after the expiration of the period specified in sub-paragraph (2) if it is satisfied that the appellant has sufficient cause for not filing it within that period

(5) The appellate authority may, after giving the appellant a reasonable opportunity of being heard, pass an order,—

(*a*) where the appeal is against an order rejecting the application for the certificate,—

(*i*) confirming the order appealed against, or

(*ii*) varying the said order and directing the competent officer to grant a certificate for an amount to be specified therein, or

(*iii*) setting aside the said order and directing the competent officer to make a fresh determination under paragraph 9,

(*b*) where the appeal is against an order granting a certificate,—

(*i*) confirming the order appealed against, or

(*ii*) varying the said order and directing the issue of a fresh certificate for an amount to be specified therein in lieu of the certificate already issued, or

(*iii*) setting aside the said order and directing the competent officer to make a fresh determination under paragraph 9, or

(*iv*) annulling the said order and cancelling the certificate issued

Provided that the appellate authority shall not pass an order cancelling the certificate issued or directing the issue of a fresh certificate for a lesser amount than that for which the certificate was originally granted, unless the appellant has been given a reasonable opportunity of showing cause against such cancellation or direction

(6) The appellate authority may, before disposing of any appeal, make such further inquiry as it considers necessary or direct the competent officer to make such inquiry and report the result thereof to it

(7) The appellate authority may, where it considers necessary so to do, require the presence of the competent officer at the time of the hearing of the appeal

(8) An order passed by the appellate authority under sub-paragraph (5) shall be final.

(9) A copy of the order passed under sub-paragraph (5) or sub-paragraph (6), as the case may be, shall be given to the appellant

14. Modification of orders and certificates under certain circumstances.—(1) With a view to rectifying any mistake apparent from the record the appellate authority specified in paragraph 13 may, by order in writing, amend any order passed by it and the competent officer may, by order in writing, amend any order passed under paragraph 9

(2) Any order under sub-paragraph (1) may be made by the said appellate authority or the competent officer, as the case may be, either on his own motion or on the application of the person in relation to whom the order was passed

(3) If—

(*i*) the competent officer has reason to believe that, by reason of the omission or failure on the part of the person to whom a certificate has been issued under this Scheme to disclose fully and truly all material facts necessary for making a correct determination under paragraph 9, the certificate has

been issued for an amount in excess of the amount for which the certificate should have been issued, or

(ii) notwithstanding that there has been no omission or failure as mentioned in clause (i) on the part of such person, the competent officer has in consequence of information in his possession reason to believe that the certificate has been issued for an amount in excess of the amount for which the certificate should have been issued,

he shall, after making such inquiry as he deems fit, proceed to make a fresh determination under paragraph 9.

(4) No order under sub-paragraph (1) which prejudicially affects any person to whom the certificate was originally granted and no order under sub-paragraph (3) shall be made unless the officer or authority passing the order has given notice to such person of his intention so to do and has allowed such person a reasonable opportunity of being heard and a copy of every such order shall be sent to the said person

(5) With a view to giving effect to an order under sub-paragraph (1) or sub-paragraph (3), the competent officer may recall the certificate either directly or through the authorised bank, at any time after action under either of the said sub-paragraphs has been initiated and thereafter the certificate shall be dealt with in accordance with such order

(6) Where, in consequence of an order made under sub-paragraph (1) or sub-paragraph (3), the competent officer finds that the amount for which the certificate was originally issued to a person is in excess of the amount determined under the order aforesaid, he may set off the amount of such excess against the amount of any other certificate which has or may become due to the same person or require any other competent officer so to do.

(7) Where at any time after action has been initiated under sub-paragraph (1) or sub-paragraph (3), the competent officer finds that the relevant certificate has already been produced before the Income-tax Officer and that—

(i) no adjustment or payment has been made in pursuance of sub-section (6) of section 280Z, he may recall the certificate and deal with it in accordance with his order under either of the said sub-paragraphs,

(ii) a part of the amount covered by the certificate has been adjusted and the payment of the balance has not been made under the provisions of the said sub-section, he may cancel the certificate in so far as it relates to the amount of such balance and thereafter, where necessary, issue a fresh certificate in accordance with his order under either of the said sub-paragraphs and where a certificate has been so cancelled send an advice to that effect to the Income-tax Officer in Form K,

(iii) the whole of the amount covered by the certificate has been adjusted or paid under the aforesaid sub-section, or in a case falling under clause (ii) the amount already adjusted is in excess of the amount determined under the aforesaid order, he may forward to the Income-tax Officer an authorisation in Form L specifying the sum by which the amount of the certificate originally issued or, as the case may be, the amount adjusted, exceeds the amount determined under the aforesaid order and on receipt of such authorisation, the Income-tax Officer shall serve upon the person a notice of demand under section 156 for the amount specified therein as if it were a sum payable in consequence of an order passed under the Act and all the provisions of the Act shall apply accordingly

15. Issue of duplicate certificate.—(1) In the event of loss or destruction of a certificate, the amount shown whereon has not already been adjusted or refunded by the Income-tax Officer under section 280Z, the competent officer may on application made to him and after making such inquiry and subject to such conditions as he deems fit, issue a duplicate of such certificate

Provided that no such application for a duplicate shall be entertained after the expiry of one year from the date of the original certificate

(2) Where a duplicate has been issued under sub-paragraph (1), it shall bear the endorsement "DUPLICATE OF CERTIFICATE BEARING BOOK NUMBER . VOUCHER NUMBER . . . DATED ... . VALID ONLY IF THE ORIGINAL HAS NOT BEEN ACTED UPON" made in red ink, and the original certificate if and when discovered or produced thereafter shall be of no effect

16. Service of notice.—All notices and orders under this Scheme—

(*i*) of an authorised officer, or

(*ii*) of a competent officer as are not communicated through the authorised bank, or

(*iii*) of an appellate authority,

may be addressed and served in the manner specified in section 282.

17. Rights and obligations of persons who jointly subscribe to an eligible issue of capital.—(1) Where any ordinary share forming part of an eligible issue of capital is registered in the names of two or more individuals jointly, such individuals shall, for the purposes of section 280Z and this Scheme, be deemed to have subscribed thereto and made payments in respect thereof in equal proportions, except as provided for in sub-paragraph (2)

(2) Where it is claimed by or on behalf of one or more such individuals that the capital was not subscribed and paid for in equal shares, such individuals may, on production of proof to the satisfaction of the competent officer, be treated, for the purposes of section 280Z and this Scheme, as having subscribed to and made payments in respect of such capital to the extent of the amount which the competent officer may, on the basis of the evidence produced, determine

18. Rights and obligations of persons who subscribe to an eligible issue of capital on behalf of or for the benefit of any other person.—(1) Where any ordinary share comprised in an eligible issue of capital is registered in the name of an individual, such individual shall, for the purposes of section 280Z and this Scheme, be deemed to be the person entitled to the certificate, except in cases where it is otherwise provided for in sub-paragraph (2)

(2) Where the person referred to in sub-paragraph (1) claims that he is holding the shares on behalf of or for the benefit of any other person, and proves to the satisfaction of the competent officer that he is so holding, the second mentioned person shall for the purposes of section 280Z and this Scheme be treated as the person entitled to the certificate and the provisions of the said section and Scheme shall apply accordingly

19. Devolution or transfer of right in or title to certificate.—(1) Where, by reason of death, incapacity, insolvency or any other cause, an individual is unable to claim or receive a certificate to which he is eligible under this Scheme or to claim adjustment or refund of the whole or part of the amount of a certificate granted to him, his legal representative or guardian or the receiver, as the case may be, may claim or receive such certificate, adjustment or refund, for the benefit of such individual or his estate

in accordance with the provisions of this Scheme as if the person claiming or receiving were such individual and all the provisions of this Scheme shall apply accordingly

(2) Where a Hindu undivided family eligible for grant of a certificate or for the adjustment or refund of the whole or part of the amount thereof is partitioned (whether totally or partially) and an order has been recorded by the Income-tax Officer under sub-section (3) of section 171 in respect of such family, every member or group of members thereof may receive such certificate or claim adjustment or refund for a portion of the amount for which the certificate is due or granted to the family, calculated in accordance with the proportion in which such member or group of members was entitled to share the assets of the family at the partition and all the provisions of the Scheme shall apply accordingly as if every such member or group of members is the person eligible for such certificate, adjustment or refund, as the case may be, in so far as it relates to such portion

(3) Notwithstanding anything contained in sub-paragraph (2), the amount of a certificate granted to a member or group of members of a Hindu undivided family under the said sub-paragraph shall, for the purpose of the adjustment under sub-section (6) of section 280Z, be deemed to be the amount of a certificate granted to such family

20. Powers of the Central Government to issue instructions and directions.—All officers and persons engaged in the implementation of this Scheme shall observe the orders, instructions and directions of the Central Government

21. Special provision relating to certain prior issues.—Notwithstanding anything contained in this Scheme, where any public company has, before the commencement of this Scheme, issued any ordinary share capital which would be an eligible issue of capital if this Scheme were in force on the date of such issue, the company may apply for authorisation in accordance with this Scheme and the provisions thereof shall, as far as may be, apply to such issue

APPENDIX

FORM A

TAX CREDIT CERTIFICATES

Application for authorisation regarding eligible issue of capital

[See paragraph 4(1) and (2) of the Tax Credit Certificate (Equity Shares) Scheme, 1965]

I (*a*) Name of the company ______

(*b*) Date of incorporation of the company as a public company ______

(*c*) If it was originally a private company,—

(1) date of incorporation as a private company ______

(2) date of conversion into public company ______

(*d*) Place of registration and location of Head Office ______

II (*a*) Present business of the company ______

(*b*) Proposed business for which the finance of the capital issued is intended ______

(*c*) Whether a licence under the Industries (Development and Regulation) Act, 1951, has been obtained (if so, enclose certified copy) ______

(*d*) Name(s) of the article(s) proposed to be manufactured or processed and the number(s) of the item(s) in the First Schedule to the Industries (Development and Regulation) Act, 1951 ______

III (*a*) Total amount of capital under issue,—

(1) equity shares ______

(2) preference shares ______

(*b*) Whether the Capital Issues (Exemption) Order, 1961, is applicable to the issue ______

(*c*) If not, give the number and date of the consent order under Capital Issues (Control) Act, 1947 ______

(*d*) The amount of the equity shares issued or proposed to be issued privately to,—

(give dates of issue where already made)

(1) non-residents ______

(2) residents ______

(*e*) The amount of equity shares offered or proposed to be offered to public through prospectus

(give date(s) of issue if prospectus has already been published) ______

(*f*) The amount of equity shares issued for consideration other than cash ______

(*g*) The book value of the assets or business for the transfer of which shares shown against (*f*) form consideration ______

(*h*) Whether any part of the amount shown against (*f*) represents consideration for the transfer of goodwill of an asset or business, if so, give particulars ______

IV (To be filled up in the case of a public company formed on conversion of a private company)

(*1*) Paid up equity capital on the date of its conversion as a public company ______

(*2*) Dividends, if any, declared when it was a private company ______

(*3*) Whether there was any revaluation of assets when it was a private company ______

(*4*) Whether a goodwill was created as an asset in the books of the company when it was a private company ______

V Miscellaneous information ______

Declaration

I hereby declare that,—

(*i*) to the best of my knowledge and belief, the information given above is correct, complete and truly stated,

(ii) I have understood the provisions contained in the Tax Credit Certificate (Equity Shares) Scheme, 1965, and agree to abide by the same

Place

Date

(*Signature of the principal officer of the company, status and full address*)

NOTE —The application should be in triplicate and be accompanied by the following documents
(1) Three copies of Memorandum and Articles of Association of the company
(2) In the case of a public company formed on conversion of a private company, three copies of latest audited balance-sheet in respect of the private company
(3) Three copies of prospectus or statement in lieu of prospectus

FORM B

TAX CREDIT CERTIFICATES

Authorisation as eligible issue of capital

[See paragraph 4(4) of the Tax Credit Certificate (Equity Shares) Scheme, 1965]

Whereas . have made an application dated 19 , for an authorisation that the issue of ordinary shares made/proposed to be made by them is an eligible issue of capital under the Tax Credit Certificate (Equity Shares) Scheme, 1965;

Whereas I am satisfied after inquiry that the issue of ordinary share capital of Rs the details whereof are given below, is an eligible issue of capital within the meaning of paragraph 3 of the said Scheme,

I hereby authorise the said issue of ordinary share capital to be an eligible issue of capital under the paragraph aforesaid

Equity share capital already issued

Equity share capital proposed to be issued

Total ..

2 This authorisation is subject to the provisions of paragraph 5 of the Scheme

Authorised officer
(*Signature and designation*)

Instructions

(1)

(2) ..

(3)

FORM C

Intimation to shareholders regarding eligible issue of capital

[See paragraph 6(3) of the Tax Credit Certificate (Equity Shares) Scheme, 1965]

From

(name and address of the company)

. . . .

To

. .

(name of the registered shareholder,

and where there are more than one,

the first name)

This is to inform you that the equity shares bearing number .. . to number registered in your name/joint names of . . . . . . covered by share certificate No . .. .form part of an eligible issue in terms of the authorisation No . .. dated . . .received by the company from the authorised officer under paragraph 4 of the Tax Credit Certificate (Equity Shares) Scheme, 1965

2 The shares mentioned above have been allotted to you/acquired by you from . . .. . whose name was specified
(name of the underwriter)
as an underwriter in the prospectus or in the statement in lieu of prospectus relating to the eligible issue of capital aforesaid

3 The amount of the capital on the aforesaid shares was credited to the share capital account of the company on . ...
(date)

Date . ...

(*Signature of the principal officer of the company*)

NOTE—This intimation should be preserved and attached to the relevant share certificate and produced along with the application for tax credit certificate

FORM CI

TAX CREDIT CERTIFICATES

Declaration by a registered shareholder who is not the beneficial owner of the shares

[See paragraph 6A of the Tax Credit Certificate (Equity Shares) Scheme, 1965]

This is to certify that the equity shares bearing number . . . . . to number ... in . .... . covered by share certificate
(name of company)
No ... dated . mentioned in the enclosed intimation in Form C belong to . .. , the beneficial owner, and are held
(name and address)
by me/us for safe custody/as security for loan.

Date . ...

Signature of the registered shareholder

FORM D

TAX CREDIT CERTIFICATES

Appeal to Central Government

[See paragraph 7 of the Tax Credit Certificate (Equity Shares) Scheme, 1965]

*No . . . of .. . .. 19 . —19... .

Name and address of the appellant . . . .

. . .

Paragraph and sub-paragraph of the Tax Credit Certificate (Equity Shares) Scheme, 1965, under which the authorised officer passed the order appealed against . . . . .

Date of the order . ..

Date of service of the order . . . .

†Relief claimed in appeal . ..

Whether personal hearing is desired . ...

Address at which notices may be sent to the appellant .. . . .

Signature . . ..

(*Principal officer of the appellant company*)

STATEMENT OF FACTS

GROUNDS OF APPEAL

Signature . . . . .

(*Principal officer of the appellant company*)

FORM OF VERIFICATION

I hereby declare that what is stated above is true to the best of my information and belief

Place . . .. *Signature* .. . . .

(*Principal officer of the appellant company*)

Date . . .

N B —The memorandum of appeal, statement of facts and the grounds of appeal must be in duplicate and should be accompanied by a copy of the order appealed against

*These particulars are not to be filled by the appellant

†If the space provided herein is insufficient, separate enclosures may be used for the purpose

FORM E

TAX CREDIT CERTIFICATES

Application for grant of Tax Credit Certificate

[See paragraph 8 of the Tax Credit Certificate (Equity Shares) Scheme, 1965]

To

The Reserve Bank of India,
Bombay/Calcutta/Madras/New Delhi

Through

(authorised bank)

Sir,

I, , being the

registered shareholder/beneficial owner

*legal representative / guardian / receiver } of (name and address) †who is the registered shareholder/beneficial owner

of equity shares forming part of eligible issue(s) of capital, request that a tax credit certificate under section 280Z of the Income-tax Act, 1961, be granted for the appropriate amount to which

I am

the Hindu undivided family of (name of family) of which I am *karta*/member is

the said (name and address) † is

entitled with reference to the aggregate of the amounts subscribed to and paid towards the said shares during the financial year ended 31st March, 19
The relevant particulars are furnished hereinbelow

1 Name and address of applicant

2. Name and address of H U F of which the applicant is *karta*/member

3 If any of the shares are held in joint names, the names and addresses of all the joint holders (To be furnished in an annexure if the space is not sufficient)

4 Whether the applicant/Hindu undivided family/ registered shareholder/beneficial owner entitled to the certificate is assessed to income-tax, and, if assessed, the designation of the Income-tax Officer by whom the last assessment was made — State / City/Town / Income-tax Circle/Ward/ District / G I R No

5 Details of the equity shares held

Serial No	Name and address of the company	No of shares with their distinctive numbers	No and date of issue of share certificate	Face value of each share	Amount called up and paid on each share	Total amount paid on the entire holding shown in column 3	Where the shares have been acquired from an underwriter			Date on which the amount in column 7 was credited to the share capital account of the company	No and date of authorisation by authorised officer declaring the issue as an eligible issue of capital	Remarks
							Name and address of the underwriter	Date of acquisition	Amount paid			
1	2	3	4	5	6	7	8	9	10	11	12	13

6 (To be filled in where the applicant is the beneficial owner of the shares but not the registered shareholder thereof)

(i) Name of the registered shareholder and address .

(ii) Name of the beneficial owner and address

(iii) Reasons why the registered shareholder subscribed to the eligible issue of capital on behalf of the applicant

(iv) Source of investment

(v) Relationship between registered shareholder and applicant

(vi) Date of written instructions given to registered shareholder for subscribing to the shares (copy attached) .

I hereby declare that I have included in the statement furnished above particulars of all amounts subscribed to and paid towards eligible issue(s) of capital during the financial year ended 31st March, 19 , and that no other application for grant of tax credit certificate has been made by me with reference to the amounts subscribed to and paid towards eligible issue(s) of capital during the financial year aforesaid

I further declare that to the best of my knowledge and belief the information furnished above is correct, complete and is truly stated

Yours faithfully,

Place .. . . *Signature* .. . .. .

Date . . .. *Status* . . ..

---

*Score out inapplicable words
†The same name should be shown at both these places

NOTES—1 (a) An application for tax credit certificate in respect of shares of which the applicant is the beneficial owner should be separate from the application or applications made in a representative capacity

(b) Where the applicant is acting in a representative capacity for more than one person, separate applications should be made for the tax credit certificate to which every one of such persons is entitled

2 The date in column 11 should be the date specified in this behalf in Form C (Intimation received from the company along with the share certificate) If this date falls after the 31st March of the year specified in the body of the application, the relevant share will not qualify for the grant of tax credit certificates in respect of that year and should not be shown in this application.

3 The application must be in triplicate and should be accompanied by the share certificate(s) referred to in column 4 above along with the intimation in Form C (in original)

4 The amount of the tax credit certificate will be calculated as under —
Where the total amount shown in column 7 of the Statement—
(i) does not exceed Rs 15,000—5 per cent of the said amount,
(ii) exceeds Rs 15,000 but does not exceed Rs 25,000—Rs 750 plus 3 per cent of the excess over Rs 15,000,
(iii) exceeds Rs 25,000 but does not exceed Rs 35,000—Rs 1,050 plus 2 per cent of the excess over Rs 25,000,
(iv) exceeds Rs 35,000—Rs 1,250

(TO BE FILLED IN BY THE AUTHORISED BANK)

I hereby certify that the particulars set out above have been verified and found to be correct and complete in all respects The application is accompanied by the original share certificate(s) relating to the eligible issue(s) of capital in respect of

which tax credit certificate is claimed, the intimation in Form C referred to in paragraph 6(3), and (where appropriate) the declaration in Form C1 referred to in paragraph 6A, of the Scheme, in respect of each such issue of capital

Place .. *Agent/Manager* .. . .
(*Name of the bank*)

Date . . .

(Tear off along this line)

FORM E1

[See paragraph 8(3) of the Scheme]

No

Received from Shri . an application (in triplicate) for the grant of tax credit certificate under the Tax Credit Certificate (Equity Shares) Scheme, 1965, along with the share certificate(s), intimation(s) in Form C and declaration(s) in Form C1

Place *Agent/Manager* .. .
(*Name of the bank*)

Date . .

NOTE —This acknowledgment should be returned to the bank, duly discharged, at the time of receiving the tax credit certificate

COUNTERFOIL FORM F

Tax Credit Certificate (Equity Shares)

[See paragraph 9 of the Tax Credit Certificate (Equity Shares) Scheme, 1965]

NATIONAL EMBLEM
GOVERNMENT OF INDIA
Certificate not negotiable

Book No Voucher No

OFFICE OF THE RESERVE BANK OF INDIA

Certificate issued to
(name and address)
individual/Hindu undivided family
Amount of tax credit certified Rs
Reference No
Financial year for which certificate is granted (A)
Financial year during which the capital was subscribed and paid for (B)

AUDIT

Capital paid during the financial year (B) Rs
Capital held as at the end of the financial year (A) Rs
Tax credit admissible on the above Rs

Certificate examined and found correct

Date (*Auditor*)

(To be retained by the issuing office)

(To be filled by the Income-tax Office)

The amount shown on the obverse has been dealt with as under —

A Adjusted against tax/penalty/interest/other sums in respect of the assessment year

19	-19	Rs	on (date)
19	-19	Rs	on
19	-19	Rs	on
19	-19	Rs	on
Total		Rs	

B Refunded under Refund Voucher No Book No Rs on .

Grand Total Rs . *

Signature

Income-tax Officer

Circle/Ward/District
Place

*This should tally with the amount shown on the obverse

FOIL FORM F

Tax Credit Certificate (Equity Shares)

[See paragraph 9 of the Tax Credit Certificate (Equity Shares) Scheme, 1965]

NATIONAL EMBLEM
GOVERNMENT OF INDIA
Certificate not negotiable

Book No Voucher No

OFFICE OF THE RESERVE BANK OF INDIA

WHEREAS Shri/Shrimati /the Hindu undivided family of

is entitled to a tax credit certificate under section 280Z of the Income-tax Act, 1961, for the financial year 19 —19 with reference to an amount of Rs . (Rupees) subscribed to and paid in respect of eligible issue(s) of capital within the meaning of the Tax Credit Certificate (Equity Shares) Scheme, 1965, during the financial year 19 —19

NOW THEREFORE it is certified that in respect of the said payment he/she/the family is entitled to a tax credit of Rs . . (Rupees) under section 280Z of the Income-tax Act, 1961, read with the said Scheme

Competent Officer

Place

Date and stamp

(To be filled by the Office of the Reserve Bank of India on receipt of advice note back from the Income-tax Officer)

The amount shown on the obverse has been dealt with as under —

A Adjusted against tax/penalty/interest/other sums in respect of the assessment year

19	-19	Rs	on (date)
19	-19	Rs	on
19	-19	Rs .	on
19	-19	Rs	on
Total		Rs	

B Refunded under Refund Voucher No Book No Rs on

Grand Total Rs *

*This should tally with the amount shown on the obverse

FORM G

TAX CREDIT CERTIFICATES

Application for grant of Tax Credit Certificate

[See paragraph 11 of the Tax Credit Certificate (Equity Shares) Scheme, 1965]

To

The Reserve Bank of India,
Bombay/Calcutta/Madras/New Delhi

Through

(authorised bank)

Sir,

I, . , being the

registered shareholder

*legal representative / guardian / receiver } of (name and address) †who is the registered shareholder

of equity shares forming part of eligible issue(s) of capital, request that a tax credit certificate under section 280Z of the Income-tax Act, 1961, be granted for the appropriate amount to which

I am

the Hindu undivided family of (name of family) of which I am *karta*/member is

the said , (name and address) †is

entitled for the financial year ended 31st March, 19 , with reference to the aggregate of the amounts subscribed to and paid towards the said shares during an earlier financial year, namely, 19 -19 and in respect of which a tax credit certificate has been granted for such earlier financial year The relevant particulars are furnished hereinbelow

1. Name and address of applicant . .
2. Name and address of Hindu undivided family of which applicant is *karta*/member
3. If any of the shares are held in joint names, the names and addresses of all the joint holders (To be furnished in an annexure if the space is not sufficient) .
4. Whether the applicant/Hindu undivided family/registered shareholder entitled to the certificate is assessed to income-tax, and, if assessed, the designation of the Income-tax Officer by whom the last assessment was made
   State . .
   City/Town .
   I T Circle/Ward/District
   G I R No.. . . .

5 Details of the equity shares held

Serial No	Name and address of the company	No of shares with their distinctive numbers	No and date of issue of share certificate	Face value of each share	Amount called up and paid on each share	Total amount paid on the entire holding shown in column 3	Date on which the amount in col 7 was credited to the share capital account of the company	Details of tax credit certificate(s) granted for the earlier financial year(s) in respect of the shares shown in column 3				Remarks
								Book No	Voucher No	Date	Amount	
1	2	3	4	5	6	7	8	9	10	11	12	13

I hereby declare that to the best of my knowledge and belief the information furnished above is correct, complete and is truly stated

Place .. . . Yours faithfully,

Date. . *Signature* .. ..

Status .

*Score out inapplicable words
†The same name should be shown at both these places

NOTES —1 (*a*) An application for tax credit certificate in respect of shares of which the applicant is the beneficial owner should be separate from the application or applications made in a representative capacity

(*b*) Where the applicant is acting in a representative capacity for more than one person, separate applications should be made for the tax credit certificate to which every one of such persons is entitled

2 The date in column 8 should be the date specified in this behalf in Form C (Intimation received from the company along with the share certificate)

3 The application must be in triplicate and should be accompanied by the share certificate(s) referred to in column 4 above along with the intimation(s) in Form C (in original)

(TO BE FILLED IN BY THE AUTHORISED BANK)

I hereby certify that the particulars set out above have been verified and found to be correct and complete in all respects The application is accompanied by the original share certificate(s) relating to the eligible issue(s) of capital in respect of which tax credit certificate is claimed, and by the intimation in Form C referred to in paragraph 6(3) of the Scheme, in respect of each such issue of capital

Place *Agent/Manager*.
(*Name of the bank*)

Date .

(Tear off along this line)

FORM G1

[See paragraphs 8(3) and 11(2) of the Tax Credit Certificate (Equity Shares) Scheme, 1965]

No

Received from Shri ... . an application (in triplicate) for the grant of tax credit certificate under the Tax Credit Certificate (Equity Shares) Scheme, 1965, along with the share certificate(s), and intimation(s) in Form C

Place *Agent/Manager* ..
(*Name of the bank*)

Date ..

NOTE —This acknowledgment should be returned to the bank, duly discharged, at the time of receiving the tax credit certificate

FORM H

TAX CREDIT CERTIFICATES

Receipt for Certificate produced before the Income-tax Officer

[See paragraph 12 of the Tax Credit Certificate (Equity Shares) Scheme, 1965]

Reference — G I R No ... .

Received from Shri . .. (name and address)

tax credit certificate Book No . . Voucher No ..dated issued by the Reserve Bank of India for Rs

Place

Date

....
(Signature of the Income-tax Officer)
. Circle/Ward/
District

FORM J

TAX CREDIT CERTIFICATES

Appeal to ... ..
(Appellate authority)

[See paragraph 13(3) of the Tax Credit Certificate (Equity Shares) Scheme, 1965]

(Designation of the appellate authority)

†No of 19 —19

Name and address of the appellant .

Financial year to which the claim for tax credit certificate relates

Competent officer passing the order appealed against

Paragraph and sub-paragraph of the Tax Credit Certificate (Equity Shares) Scheme, 1965, under which the competent officer passed the order

Date of the order

Date of service of the order .

Particulars of the tax credit certificate, if any, in respect of which the appeal is made

Book No
Voucher No
Date
Amount

*Relief claimed in appeal

Whether personal hearing is desired

Address to which notices may be sent to the appellant

.

Signature ..
(*Appellant*)

STATEMENT OF FACTS

GROUNDS OF APPEAL

Signature

(*Appellant*)

FORM OF VERIFICATION

I, .. , the appellant, do hereby declare that what is stated above is true to the best of my information and belief

Place ... *Signature* . . .

Date . .. *Status of Appellant*

NOTES —1 The memorandum of appeal, statement of facts and the grounds of appeal must be in duplicate and should be accompanied by a copy of the order appealed against and where the appeal is against an order granting a tax credit certificate, by such certificate

2 Delete the inappropriate words

† These particulars will be filled in in the office of the appellate authority

*If the space provided herein is insufficient separate enclosures may be used for the purpose

FORM K

TAX CREDIT CERTIFICATES

Advice of cancellation of Tax Credit Certificate

[See paragraph 14(7)(*ii*) of the Tax Credit Certificate (Equity Shares) Scheme, 1965]

From

(Competent Officer)

To

The Income-tax Officer,

. .. .

WHEREAS a tax credit certificate (Book No . Voucher No dated .) for an amount of Rs (Rupees (in words)) has been granted to (name and address) ,

AND WHEREAS action has been initiated by me under sub-paragraph (1) and/or sub-paragraph (3) of paragraph 14 of the Tax Credit Certificate (Equity Shares) Scheme, 1965, and it is understood that part of the amount covered by the said certificate has been adjusted and the balance remains to be adjusted or paid under sub-section (6) of section 280Z of the Income-tax Act, 1961,

NOW, THEREFORE, in exercise of the powers conferred on me under clause (*ii*) of sub-paragraph (7) of paragraph 14 of the said Scheme, I have cancelled the certificate

in so far as it relates to the entire balance which remains unadjusted or unpaid and hereby advise you accordingly about the cancellation

Place . . .

Date and stamp *Competent Officer*

FORM L

TAX CREDIT CERTIFICATES

Authorisation by .
(Competent Officer)

[See paragraph 14(7)(*iii*) of the Tax Credit Certificate (Equity Shares) Scheme, 1965]

To

The Income-tax Officer,

WHEREAS tax credit certificate (Book No . .. ..Voucher No . dated) for an amount of Rs . (Rupees . .) has been granted to
(in words) (name and address)
. and the amount of the said certificate has been adjusted and/or paid,

AND WHEREAS in accordance with the determination under paragraph 14 read with paragraph 9 of the Tax Credit Certificate (Equity Shares) Scheme, 1965, the amount adjusted and/or paid is not due/exceeds the amount determined as aforesaid by Rs . . (Rupees),

NOW, THEREFORE, you are hereby authorised under paragraph 14(7)(*iii*) of the said Scheme to realise the amount of Rs .
(Rupees .) from
in accordance with the provisions of the said paragraph

Place .

Date and stamp .

Competent Officer

THE TAX CREDIT CERTIFICATE (CORPORATION TAX) SCHEME, 1966

(*Notification No. S O 2671, dated 30th August 1966*)

In exercise of the powers conferred by section 280ZE of the Income-tax Act, 1961 (XLIII of 1961), read with section 280ZB of that Act, and all other powers enabling it in this behalf, the Central Government hereby makes the following Scheme, namely:—

1. Short title and commencement.—(1) This Scheme may be called the Tax Credit Certificate (Corporation Tax) Scheme, 1966

(2) It shall come into force on the 1st day of November, 1966

2. Definitions.—(1) In this Scheme, unless the context otherwise requires,—

(*a*) "Act" means the Income-tax Act, 1961 (XLIII of 1961),

(*b*) "certificate" means a tax credit certificate referred to in section 280ZB,

(*c*) "paragraph" means a paragraph of this Scheme and "sub-paragraph" means a sub-paragraph of the paragraph in which it occurs,

(*d*) "relevant year" means an assessment year, not being the base year or the succeeding base year, as the case may be, commencing on the 1st day of April, 1966, or the 1st day of April, 1967, or the 1st day of April, 1968, or the 1st day of April, 1969, or the 1st day of April, 1970, in respect of which a company is entitled to a certificate,

(*e*) "section" means a section of the Act,

(*f*) "Surtax Act" means the Companies (Profits) Surtax Act, 1964 (VII of 1964)

(2) In this Scheme, the words "base year", "succeeding base year" and "tax" shall have the meanings respectively assigned to them in section 280ZB

(3) All references to "Forms" in this Scheme shall be construed as references to the Forms set out in the Appendix hereto

3. Application for certificate.—(1) Any company which claims that it is eligible for the grant of a certificate in respect of any relevant year, may apply to the Income-tax Officer at any time after

(*a*) the regular assessment of the company in respect of the base year or the succeeding base year, as the case may be, has been made under the Act and where the profits of the company are chargeable to surtax under the Surtax Act, also under that Act, and

(*b*) the company has furnished a return of income under the Act, and where the profits of the company are chargeable to surtax under the Surtax Act, also a return of chargeable profits under the said Act, in respect of the relevant year

(2) Where—

(*a*) as a result of an order under the provisions of section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 264 or an order under the corresponding provisions of the Surtax Act, the tax which the company is liable to pay for the base year or the succeeding base year, as the case may be, is determined at an amount which is lower than the amount with reference to which a certificate, if any, has already been granted to it, or

(*b*) on completion of the regular assessment under the Act or as a result of an order of reassessment or recomputation under section 147 or as a result of an order under section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263, or on completion of the regular assessment under the Surtax Act or as a result of an order under the provisions of that Act corresponding to the provisions of the sections referred to above, the tax which the company is liable to pay for the relevant year is determined at an amount which is higher than the amount with reference to which a certificate, if any, has already been granted to it,

the company may make an application for the grant of a certificate or, as the case may be, a further certificate for the appropriate amount to which it is entitled on the basis of such regular assessment or order

Provided that where the company has presented an appeal under section 246 or section 253 or an application for reference under section 256 or an appeal under section 261 or an application for revision under section 264 against any order of the Income-tax Officer for the relevant year, or, as the case may be, where the company has taken like action under the corresponding provisions of the Surtax Act, it shall not be entitled to make an application under this sub-paragraph in relation to the tax attributable to the amount of income which is disputed in such appeal, reference or revision unless such tax has been paid in full

(3) An application under sub-paragraph (1) shall be in Form No 1 and an application under sub-paragraph (2) shall be in Form No 2, and in either case shall be made in duplicate

(4) In a case where an application is made by the company under sub-paragraph (1), the amount, if any, for which the company is entitled to a certificate shall be computed with reference to the tax which the company is liable to pay on the basis of the return referred to in clause (*b*) of that sub-paragraph and the accounts and documents, if any, accompanying it and after giving due effect to the allowance referred to in sub-section (2) of section 32, any development rebate carried forward under sub-section (2) of section 33, any development allowance carried forward under sub-section (2) of section 33A and any loss carried forward under sub-section (1) of section 72 or sub-section (2) of section 73 or sub-section (1) of section 74

4. Grant of certificate—(1) The Income-tax Officer shall, after making such inquiry (including the obtaining of further particulars from the company) as he deems fit, by order determine the eligibility of the applicant for the certificate and the amount thereof

(2) Where the Income-tax Officer is satisfied that the applicant is so eligible, he shall grant the certificate in Form No 3 for the amount determined by him under sub-paragraph (1) and forward the same to the applicant together with a copy of the order under that sub-paragraph

(3) Where as a result of the inquiry, the Income-tax Officer is satisfied that the applicant is not eligible for the grant of the certificate, he shall, by order and for reasons to be recorded therein, reject the application and forward a copy of such order to the applicant.

5. Appeal.—(1) Any company aggrieved by an order of the Income-tax Officer passed under paragraph 4 may appeal to the Commissioner against such order

(2) Every appeal under sub-paragraph (1) shall be filed by the company aggrieved within thirty days of the date on which the order sought to be appealed against is served on it

(3) Every appeal as aforesaid shall be in Form No 4 and be accompanied by a copy of the order appealed against and where a certificate has been granted by the Income-tax Officer, also by such certificate (in original) which shall be retained by the Commissioner and dealt with in accordance with such order as he may pass under sub-paragraph (5)

(4) The Commissioner may admit an appeal after the expiration of the period specified in sub-paragraph (2) if he is satisfied that the appellant had sufficient cause for not filing it within that period.

(5) The Commissioner may, after giving the appellant a reasonable opportunity of being heard, pass an order,—

(*a*) where the appeal is against an order rejecting the application for the certificate,—

(*i*) confirming the order appealed against, or

(*ii*) varying the said order and directing the Income-tax Officer to grant a certificate for an amount to be specified therein, or

(*iii*) setting aside the said order and directing the Income-tax Officer to make a fresh determination under paragraph 4,

(*b*) where the appeal is against an order granting a certificate,—

(*i*) confirming the order appealed against, or

(*ii*) varying the said order and directing the issue of a fresh certificate for an amount to be specified therein in lieu of the certificate already issued, or

(*iii*) setting aside the said order and directing the Income-tax Officer to make a fresh determination under paragraph 4, or

(*iv*) annulling the said order, and cancelling the certificate issued

Provided that the Commissioner shall not pass an order cancelling the certificate issued or directing the issue of a fresh certificate for a lesser amount than that for which the certificate was originally granted, unless the appellant has been given a reasonable opportunity of showing cause specifically against such cancellation or direction

(6) The Commissioner may, before disposing of an appeal, make such further inquiry as he thinks fit or direct the Income-tax Officer to make such inquiry and report the result thereof to him

(7) The Commissioner may, where he considers it necessary so to do, require the presence of the Income-tax Officer at the time of the hearing of the appeal

(8) A copy of the order passed under sub-paragraph (5) or sub-paragraph (6), as the case may be, shall be given to the appellant.

6. Specified period for using the amount of the certificate.—The period referred to in the proviso to sub-section (2) of section 280ZB within which a company is required to use the amount of the certificate for any one or more of the purposes specified therein (hereinafter in this Scheme referred to as approved purposes) shall be a period of three consecutive financial years commencing with the financial year immediately preceding the relevant year

7. Production of certificate before the Income-tax Officer.—(1) The company shall produce the certificate granted to it together with a statement in Form No 5 before the Income-tax Officer who shall grant a receipt in respect thereof in Form No 6

(2) The Income-tax Officer shall thereafter proceed to adjust or, as the case may be, refund, in accordance with the provisions of sub-section (2) of section 280ZB so much of the amount shown on the certificate as is equal to the amount which is shown by the company to the satisfaction of the Income-tax Officer to have been used by it during the period specified in paragraph 6 for any one or more of the approved purposes

(3) Notwithstanding anything contained in sub-paragraph (2), any amount used by the company during the period specified in paragraph 6 for any one or more of the approved purposes with reference to which the amount shown on the certificate granted to it in respect of any relevant year has been adjusted or paid under that sub-paragraph shall not be taken into account for the purpose of making adjustment or payment of the amount shown on a certificate granted to the company in respect of any other relevant year.

8. Modification of orders and certificates under certain circumstances.—(1) With a view to rectifying any mistake apparent from the record, the Commissioner may, by order in writing, amend any order passed by him under paragraph 5 and the Income-tax Officer may, by order in writing, amend any order passed by him under paragraph 4.

(2) Any order under sub-paragraph (1) may be made by the Commissioner or the Income-tax Officer, as the case may be, either on his own motion or on an application by the company in relation to whom the order was passed.

(3) Where—

(*a*) as a result of an order of reassessment or recomputation under section 147 or as a result of an order under section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or as a result of an order under the provisions of the Surtax Act corresponding to the provisions of the sections referred to above, the tax which the company is liable to pay for the base year or, as the case may be, the succeeding base year is determined at an amount which is higher than the amount with reference to which a certificate has already been granted to it, or

(*b*) on completion of the regular assessment under the Act or as a result of an order under section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 264 or on completion of the regular assessment under the Surtax Act or as a result of an order under the provisions of that Act corresponding to the provisions of the sections referred to above, the tax which the company is liable to pay for the relevant year is determined at an amount which is lower than the amount with reference to which a certificate has already been granted to it,

the Income-tax Officer finds that the amount for which the certificate was originally granted to the company is in excess of the amount to which the company is entitled, he shall proceed to make a fresh determination under paragraph 4.

(4) No order under sub-paragraph (1) which prejudicially affects any person to whom the certificate was originally issued and no order under sub-paragraph (3) shall be made unless the officer passing the order has given notice to such person of his intention so to do and has allowed such person a reasonable opportunity of being heard

(5) With a view to giving effect to an order under sub-paragraph (1) or sub-paragraph (3), the Income-tax Officer may, if the certificate has not been produced before him, recall the certificate at any time after action under either of the said sub-paragraphs has been initiated and thereafter the certificate shall be dealt with in accordance with such order

(6) Where, in consequence of an order under sub-paragraph (1) or sub-paragraph (3), the Income-tax Officer finds that the amount for which the certificate was originally

issued to a company is in excess of the amount determined under the order aforesaid, he may set off the amount of such excess against the amount of any other certificate which has become due to the same company

(7) Where at any time after action has been initiated under sub-paragraph (1) or sub-paragraph (3), the Income-tax Officer finds that the relevant certificate has already been produced before him and that—

(*i*) no adjustment or payment has been made in pursuance of sub-section (2) of section 280ZB, he may deal with the certificate in accordance with his order under either of the said sub-paragraphs,

(*ii*) a part of the amount covered by the certificate has been adjusted and the payment of the balance has not been made under the provisions of the said sub-section, he may cancel the certificate in so far as it relates to the amount of such balance and thereafter, where necessary, issue a fresh certificate in accordance with his order under either of the said sub-paragraphs,

(*iii*) the whole of the amount covered by the certificate has been adjusted or paid under the aforesaid sub-section, or in a case falling under clause (*ii*) the amount already adjusted is in excess of the amount determined under the order aforesaid, he may serve upon the company a notice of demand under section 156 for the sum by which the amount of the certificate originally issued or, as the case may be, the amount adjusted or paid exceeds the amount determined under the order aforesaid, as if it were a sum payable in consequence of any order passed under the Act and all the provisions of the Act shall apply accordingly

9. Service of notices, orders and certificates.—All notices, orders and certificates issued under this Scheme may be addressed and served in the manner specified in section 282

10. Issue of duplicate certificate.—(1) In the event of loss or destruction of a certificate the amount shown whereon has not already been adjusted or refunded by the Income-tax Officer under section 280ZB, he may, on application made to him by the company and after making such inquiry as he deems fit, issue a duplicate of such certificate

Provided that no such application for a duplicate shall be entertained after the expiry of one year from the date of the original certificate

(2) Where a duplicate has been issued under sub-paragraph (1), it shall bear the endorsement

"DUPLICATE OF CERTIFICATE BEARING BOOK NO . VOUCHER NO DATED VALID ONLY IF THE ORIGINAL HAS NOT BEEN ACTED UPON"

made in red ink, and the original certificate, if and when discovered or produced thereafter, shall be of no effect

APPENDIX

FORM No. 1

TAX CREDIT CERTIFICATES

Application for the grant of Tax Credit Certificate

[See paragraph 3 of the Tax Credit Certificate (Corporation Tax) Scheme, 1966]

To

(Income-tax Officer)

Sir,

I, (name), being the principal officer of Messrs . . . . . . Ltd, request (name of the company) that a tax credit certificate under section 280ZB of the Income-tax Act, 1961, be granted for the appropriate amount to which the said company is entitled for the assessment yeai 19 —19 . The relevant particulars are furnished hereinbelow.

1 Name and address of the company
2 G I R No .
3 Article(s) manufactured or produced indicating the number(s) of the relevant item(s) of the First Schedule to the Industries (Development and Regulation) Act, 1951
4 Assessment year for which the tax credit certificate is claimed
5 Where the company is not liable to pay any income-tax or surtax in respect of its profits and gains attributable to the manufacture or production of the article(s) specified against S No 4 for the base year, namely, assessment year 1965-66, any succeeding assessment year for which the company has first become liable to pay such tax (succeeding base year) 19 . —19
6 Details regarding the base year 1965-66/succeeding base year 19 —19

INCOME-TAX

(i) Date of the order of regular assessment
(ii) Where the total income determined in the regular assessment has been modified by an order in appeal, revision or any other proceeding under the Income-tax Act, 1961, the date of such order
(iii) Total income determined in the regular assessment as modified by an order, if any, referred to in item (ii) Rs
(iv) Tax payable on the total income specified in item (iii) Rs
(v) Profits and gains attributable to the manufacture or production of the article(s) specified against S No 3 included in the total income specified in item (iii) Rs
(vi) Tax attributable to the profits and gains specified in item (v) Rs

SURTAX

(vii) Date of the order of regular assessment
(viii) Where the chargeable profits determined in the regular assessment have been modified by an order in appeal, revision or any other proceeding under the Companies (Profits) Surtax Act, 1964, the date of such order .
(ix) Chargeable profits determined in the regular assessment as modified by an order, if any, referred to in item (viii) Rs

(x) Surtax payable on the chargeable profits specified in item (ix) Rs

(xi) Chargeable profits attributable to the manufacture or production of the article(s) specified against S No 3 included in the chargeable profits in item (ix) Rs .

(xii) Surtax attributable to the chargeable profits specified in item (xi) Rs

(xiii) Total of income-tax attributable to the profits and gains specified in item (v) and surtax on the chargeable profits specified in item (xi) [item (vi) *plus* item (xii)] Rs

7 Particulars relating to the relevant year (assessment year specified against S No 4).

INCOME-TAX

(i) Date of furnishing of return of income

(ii) Total income as per return Rs

(iii) Tax payable on the total income specified in item (ii) Rs

(iv) Profits and gains attributable to the manufacture or production of the article(s) specified against S No 3 included in the total income specified in item (ii) Rs

(v) Tax attributable to the profits and gains specified in item (iv) Rs

SURTAX

(vi) Date of furnishing of return of chargeable profits

(vii) Total chargeable profits as per return Rs

(viii) Surtax payable on the chargeable profits specified in item (vii) Rs

(ix) Chargeable profits attributable to the manufacture or production of the article(s) specified against S No 3 included in the total chargeable profits specified in item (vii) Rs .

(x) Surtax attributable to the chargeable profits specified in item (ix) Rs.

(xi) Total of income-tax on the profits and gains specified in item (iv) and surtax on the chargeable profits specified in item (ix) [item (v) *plus* item (x)] Rs

8. Amount by which the tax shown against item (xi) of S No 7 exceeds the tax shown against item (xiii) of S No 6 Rs

9 Twenty per cent of the amount shown against S No 8 Rs

10 Ten per cent of the amount shown against item (xi) of S No 7 Rs

I hereby declare that to the best of my knowledge and belief the information furnished above is correct, complete and is truly stated.

Yours faithfully,

Place *Signature* .. ..

Date . (*Principal officer*)

FORM No. 2

TAX CREDIT CERTIFICATES

Application for the grant of Tax Credit Certificate

[See paragraph 3 of the Tax Credit Certificate (Corporation Tax) Scheme, 1966]

To

.. ..
(Income-tax Officer)

Sir,

I, ... , being the principal officer of
(name)
Messrs.. . ...Ltd , request that a tax credit
(name of the company)

certificate under section 280ZB of the Income-tax Act, 1961, be granted for the appropriate further+ amount to which the said company is entitled for the assessment year 19 —19 . The relevant particulars are furnished hereinbelow.

1 Name and address of the company

2 G I R No

3 Article(s) manufactured or produced indicating the number(s) of the relevant item(s) of the First Schedule to the Industries (Development and Regulation) Act, 1951

4 Assessment year for which the tax credit certificate is claimed

5 Particulars of any certificate(s) previously granted in respect of the said assessment year — Book No / Voucher No / Amount Rs / Date

6 Where a certificate has been previously granted to the company in respect of the said assessment year, state the reason(s) for making a further application for the grant of certificate for the same assessment year

7 Where the company is not liable to pay any income-tax or surtax in respect of its profits and gains attributable to the manufacture or production of the article(s) specified against S No 3 for the base year, namely, assessment year 1965-66, any succeeding assessment year for which the company has first become liable to pay such tax (succeeding base year) — 19 -19

8 Details regarding the base year 1965-66/succeeding base year 19 -19

INCOME-TAX

(i) Date of the order of regular assessment

(ii) Where the total income determined in the regular assessment has been modified by an order in appeal, revision or any other proceeding under the Income-tax Act, 1961, the date of such order

(iii) Total income determined in the regular assessment as modified by an order, if any, referred to in item (ii) — Rs

(iv) Tax payable on the total income specified in item (iii) — Rs

(v) Profits and gains attributable to the manufacture or production of the article(s) specified against S No 3, included in the total income specified in item (iii) — Rs

(vi) Tax attributable to the profits and gains specified in item (v) — Rs

SURTAX

(vii) Date of the order of regular assessment

(viii) Where the chargeable profits determined in the regular assessment have been modified by an order in appeal, revision or any other proceeding under the Companies (Profits) Surtax Act, 1964, the date of such order

(ix) Chargeable profits determined in the regular assessment as modified by an order, if any, referred to in item (viii) — Rs

(x) Surtax payable on the chargeable profits specified in item (ix) — Rs

(xi) Chargeable profits attributable to the manufacture or production of the article(s) specified against S No 3 included in the chargeable profits specified in item (ix) — Rs

(xii) Surtax attributable to the chargeable profits specified in item (xi) — Rs

(xiii) Total of income-tax on the profits and gains specified in item (v) and surtax on chargeable profits specified in item (xi) [item (vi) *plus* item (xii)] — Rs

9 Particulars relating to the relevant year (assessment year specified against S. No 4)

INCOME-TAX

(*i*) Date of the order of regular assessment .

(*ii*) Where the total income determined in the regular assessment has been modified by an order in appeal, revision or any other proceeding under the Income-tax Act, 1961, the date of such order

(*iii*) Total income determined in regular assessment as modified by an order, if any, referred to in item (*ii*) Rs. .

(*iv*) Tax payable on the total income specified in item (*iii*) Rs

(*v*) Profits and gains attributable to the manufacture or production of the article(s) specified against S No 3 included in the total income specified in item (*iii*) Rs

(*vi*) Tax attributable to the profits and gains specified in item (*v*) Rs

SURTAX

(*vii*) Date of the order of regular assessment

(*viii*) Where the chargeable profits determined in the regular assessment have been modified by an order in appeal, revision or any other proceeding under the Companies (Profits) Surtax Act, 1964, the date of such order

(*ix*) Chargeable profits determined in the regular assessment as modified by an order, if any, referred to in item (*viii*) Rs

(*x*) Surtax payable on the chargeable profits specified in item (*ix*) Rs

(*xi*) Chargeable profits attributable to the manufacture or production of the article(s) specified against S No 3 included in the chargeable profits specified in item (*ix*) Rs

(*xii*) Surtax attributable to the chargeable profits specified in item (*xi*) Rs

(*xiii*) Total of income-tax on the profits and gains specified in item (*v*) and surtax on the chargeable profits specified in item (*xi*) [item (*vi*) *plus* item (*xii*)] Rs

10 Amount by which the tax shown against item (*xiii*) of S No 9 exceeds the tax shown against item (*xiii*) of S No 8 Rs

11 Twenty per cent of the amount shown against S No 10 Rs

12 Ten per cent of the amount shown against item (*xiii*) of S No 9 Rs

I hereby declare that to the best of my knowledge and belief the information furnished above is correct, complete and is truly stated.

Yours faithfully,

Place *Signature* . .

(*Principal officer*)

Date

*Where no application has been made in Form No 1 for the same assessment year, the word "further" should be scored out

FORM NO 3

COUNTERFOIL FORM No 3

[See paragraph 4 of the Tax Credit Certificate (Corporation Tax) Scheme, 1966]

FOIL FORM No. 3

[See paragraph 4 of the Tax Credit Certificate (Corporation Tax) Scheme, 1966]

Tax Credit Certificate
(Corporation Tax)

NATIONAL EMBLEM
GOVERNMENT OF INDIA

Certificate not negotiable

Book No Voucher No

OFFICE OF THE

Certificate issued to

Messrs Ltd
(name and address)

Amount of tax credit certified

Reference No

Assessment year for which certificate is granted

Particulars of any certificate(s) previously granted in respect of the said assessment year	Book No Voucher No Amount Date

INTERNAL AUDIT

A Total of income-tax on profits and gains attributable to the manufacture or production of the article(s) mentioned in the First Schedule to the Industries (Development and Regulation) Act, 1951, and surtax on chargeable profits attributable to the said manufacture or production, payable by the company in the base year/succeeding base year Rs

B Total of income-tax on profits and gains attributable to the manufacture or production of the article(s) specified in the First Schedule to the Industries (Development and Regulation) Act, 1951, and surtax on chargeable profits attributable to the said manufacture or production, payable by the company in the relevant assessment year Rs

C Amount by which the amount at B exceeds that at A (B *minus* A) Rs

D Twenty per cent of the amount at C Rs

E Ten per cent of the amount at B Rs

F Tax credit admissible (D or E, whichever is lower) Rs

G Amount(s) for which certificate(s) granted previously Rs

H Balance now due Rs

Certificate examined and found correct

(Auditor)

Date

Tax Credit Certificate
(Corporation Tax)

NATIONAL EMBLEM
GOVERNMENT OF INDIA

Certificate not negotiable

Book No Voucher No

OFFICE OF THE

Whereas Messrs Ltd is entitled to a tax credit certificate under section 280ZB of the Income-tax Act, 1961, for the assessment year 19 -19 with reference to an amount of Rs (Rupees) being the excess of the amount of income-tax on profits and gains attributable to the manufacture or production of the article(s) specified in the First Schedule to the Industries (Development and Regulation) Act, 1951, and surtax on chargeable profits attributable to the said manufacture or production for the relevant assessment year, over the amount of income-tax and surtax on such profits and gains and chargeable profits, respectively, for the base year/succeeding base year

Now, therefore, it is certified that in respect of the said assessment year the company is entitled to a tax credit of Rs (Rupees) under section 280ZB of the Income-tax Act, 1961, read with the Tax Credit Certificate (Corporation Tax) Scheme, 1966

(Income-tax Officer)

Place

Date and Seal

The amount shown on the obverse has been dealt with as under —

A Adjusted against tax/penalty/interest/ other sums in respect of the assessment year —

19 -19 Rs on (date)
19 -19 Rs on
19 -19 Rs on
19 -19 Rs on

Total Rs

B Refunded under Refund Voucher No
Book No
Rs on

Grand Total Rs *

Signature
(*Income-tax Officer*)

Circle/Ward/District
Place

*This should tally with the amount shown on the obverse

The amount shown on the obverse has been dealt with as under —

A Adjusted against tax/penalty/interest/ other sums in respect of the assessment year —

19 -19 Rs on (date)
19 -19 Rs . on
19 -19 Rs on .
19 -19 Rs on

Total Rs

B Refunded under Refund Voucher No
Book No
Rs on

Grand Total Rs *

*This should tally with the amount shown on the obverse

FORM No 4

TAX CREDIT CERTIFICATES

Appeal to . . . .

(Appellate authority)

[See paragraph 5 of the Tax Credit Certificate (Corporation Tax) Scheme, 1966]

†No .. . .of . (Designation of the appellate authority) 19 —19

Name and address of the appellant

Financial year to which the claim for tax credit certificate relates

Income-tax Officer passing the order appealed against

Paragraph and sub-paragraph of the Tax Credit Certificate (Corporation Tax) Scheme, 1966, under which the Income-tax Officer passed the order appealed against

Date of the order appealed against

Date of service of the order appealed against

No and date of the tax credit certificate, if any, in respect of which the appeal is made

*Relief claimed in appeal

Whether personal hearing is desired

Address at which notices may be sent to the appellant

Signature . . . .
(*Appellant*)

STATEMENT OF FACTS

GROUNDS OF APPEAL

Signature .
(*Appellant*)

FORM OF VERIFICATION

I, ... , being the principal
(name)
officer of . . , the appellant, do hereby
(name of the company)
declare that what is stated above is true to the best of my information and belief

Place *Signature* . .

Date *Address*

NOTE —The memorandum of appeal, statement of facts and the grounds of appeal must be in duplicate and should be accompanied by a copy of the order appealed against and where the appeal is against an order granting a tax credit certificate, by such certificate
†These particulars will be filled in in the office of the appellate authority
*If the space provided herein is insufficient separate enclosures may be used for the purpose

FORM No 5

TAX CREDIT CERTIFICATES

Form of application for adjustment or refund of the amount of the Certificate

[See paragraph 7 of the Tax Credit Certificate (Corporation Tax) Scheme, 1966]

To

The Income-tax Officer,
. . . ..

Sir, .

I, ... , being the principal officer
(name)
of .. .. Ltd , hereby apply for adjustment
(name of the company)
and/or refund of the amount of the certificate granted to the said company under section 280ZB of the Income-tax Act, 1961 The relevant particulars are furnished hereinbelow —

(1) Name and address of the company

(2) G I R No

(3) Assessment year in respect of which the certificate has been granted

(4) Particulars of the certificate — Book No
Voucher No
Date

(5) Amount of the certificate — Rs .

(6) Details showing amount used for the purposes specified in the proviso to sub-section (2) of section 280ZB during the period specified in paragraph 6 of the Scheme

	19 -19	19 -19	19 -19	Total
(i) Amount used for repayment of loans taken from any financial institution notified by the Central Government. (Details as per Annexure)				
(ii) Amount used for the acquisition of any capital asset in India, including the construction of any building, for the purposes of the business (Details as per Annexure)				
(iii) Amount used for redemption of debentures (Details as per Annexure)				
Total				

I hereby declare that what is stated in this application is correct, complete and is truly stated

Place *Signature*

Date . *(Principal officer)*

FORM No 6

TAX CREDIT CERTIFICATES

Receipt for Certificate produced before the Income-tax Officer

[See paragraph 7 of the Tax Credit Certificate (Corporation Tax) Scheme, 1966]

Received from .. . . Tax
(name and address of the company)
Credit Certificate (Corporation Tax) Book No . .. Voucher No . dated . for Rs (Rupees.. . . . .. .)
(in words)

Place *(Signature of the Income-tax*
Date *Officer.. Circle/*
Ward/District)

THE TAX CREDIT CERTIFICATE (SHIFTING OF INDUSTRIAL UNDERTAKINGS) SCHEME, 1967

(Notification No S O 2560, dated 21st July 1967)

In exercise of the powers conferred by Section 280ZE of the Income-tax Act, 1961 (XLIII of 1961), read with Section 280ZA thereof and all other powers enabling it in this behalf, the Central Government hereby makes the following Scheme, namely —

1. Short title and commencement.—(1) This Scheme may be called the Tax Credit Certificate (Shifting of Industrial Undertakings) Scheme, 1967.

(2) It shall come into force on the 1st day of September, 1967.

2. Definitions.—In this Scheme, unless the context otherwise requires,—

(*a*) "Act" means the Income-tax Act, 1961 (XLIII of 1961),

(*b*) "certificate" means a tax credit certificate referred to in section 280ZA,

(*c*) "Form" means a Form appended to this Scheme,

(*d*) "paragraph" means a paragraph of this Scheme and "sub-paragraph" means a sub-paragraph of the paragraph in which it occurs,

(*e*) "section" means a section of the Act,

(*f*) "urban area" means an area declared as such by the Central Government under clause (*d*) of section 280Y.

3. Prior approval for shifting of industrial undertaking.—(1) Any public company owning an industrial undertaking situate in an urban area which proposes to shift such undertaking to any area (not being the area in which such undertaking is situated) may apply to the Board for approval to such shifting

(2) Every application under sub-paragraph (1) shall be in Form No 1 and shall be made in duplicate

(3) The Board shall, after making such inquiry (including the obtaining of further particulars from the company, wherever necessary), as it deems fit, by order, either grant approval or reject the application

(4) Where the Board grants approval under sub-paragraph (3), it shall forward a copy of the order to the company and also to the Commissioner for onward transmission to the Income-tax Officer

(5) Where the Board rejects the application under sub-paragraph (3), it shall forward a copy of the order to the company

(6) No material change in the plans and proposals for shifting the industrial undertaking on the basis of which the approval under sub-paragraph (3) was granted shall be made by the company unless it has obtained the approval of the Board to such change

(7) An order granting approval under sub-paragraph (3) may be cancelled by the Board at any time if—

(*i*) the Board has reason to believe that the company has omitted or failed to disclose fully and truly all relevant particulars required to be furnished in an application under sub-paragraph (2) or the further particulars required to be furnished under sub-paragraph (3), or

(*ii*) notwithstanding that there has been no deliberate omission or failure as mentioned in clause (*i*) on the part of the company, the Board finds that there has been a material change in the plans and proposals for shifting the industrial undertaking on the basis of which the approval under sub-paragraph (3) was granted and for which approval was not obtained under sub-paragraph (6)

Provided that no order under this sub-paragraph shall be made unless the Board has given notice to the company of its intention so to do and has allowed it a reasonable opportunity of being heard

4. Further period for acquiring lands or constructing buildings, etc.—(1) Any public company which is prevented by sufficient cause from acquiring lands or constructing

buildings for the purposes of its business in the area to which the undertaking is proposed to be shifted or from shifting its machinery or plant and other effects and transferring its establishment to such area within a period of three years from the date of the approval under sub-paragraph (3) of paragraph 3, may apply to the Board for being allowed such further period as may be specified by the company, within which such acquisition, construction, shifting or transfer may be made

(2) Every application under sub-paragraph (1) shall be in Form No 2 and shall be made in duplicate before the expiry of the period of three years aforesaid.

(3) If the Board, after making such inquiry (including the obtaining of further particulars from the company) as it deems fit, is satisfied that the company is prevented by sufficient cause from proceeding with such acquisition, construction, shifting or transfer, it may by order allow to the company such further period as may be considered by the Board to be reasonable under the particular circumstances of the case and a copy of every such order shall be forwarded to the company and also to the Commissioner for onward transmission to the Income-tax Officer

(4) Where the Board is not so satisfied, it shall, after giving the company an opportunity of being heard, by order reject the application and forward a copy of such order to the company

5. Application for certificate.—(1) Any public company which, having obtained approval to the shifting of its industrial undertaking under sub-paragraph (3) of paragraph 3, claims that it is eligible for the grant of a certificate with reference to the amount of tax payable by it on its income chargeable under the head "Capital Gains" arising from the transfer of capital assets, being buildings or lands or any rights in buildings or lands used for the purposes of the business of the said industrial undertaking in the urban area, effected in the course of, or in consequence of, the shifting of such industrial undertaking as aforesaid (such income, hereafter in this Scheme, being referred to as "qualifying capital gains"), may make an application to the Income-tax Officer for the grant of the certificate, at any time after a return of income has been furnished by the company in respect of the assessment year for which the 'qualifying capital gains' are chargeable to tax

(2) Where on completion of the regular assessment in respect of the assessment year aforesaid or as a result of an order of reassessment or recomputation under section 147 or as a result of an order under section 154 or section 250 or section 254 or section 260 or section 262 or section 263 for the said assessment year, the tax which is attributable to the qualifying capital gains is determined in an amount which is higher than the amount with reference to which a certificate, if any, has already been granted to it (hereinafter referred to as the previous certificate) or where, for any other reason, the company is entitled to a certificate for an amount which is higher than the amount of the previous certificate, it may make an application to the Income-tax Officer for the grant of a certificate or, as the case may be, a further certificate for the appropriate amount to which it is entitled

Provided that where the company has presented an appeal under section 246 or section 253 or an application for reference under section 256 or an appeal under section 261 or an application for revision under section 264 against the computation of the qualifying capital gains, it shall not be entitled to make an application under this sub-paragraph in relation to the tax attributable to the amount of capital gains which is disputed in such appeal, reference or revision unless such tax has been paid in full

(3) An application under sub-paragraph (1) shall be in Form No 3 and an application under sub-paragraph (2) shall be in Form No 4, and in either case shall be made in duplicate.

(4) In a case where an application is made by the company under sub-paragraph (1), the amount, if any, for which the company is entitled to a certificate shall be computed with reference to the tax on the qualifying capital gains on the basis of the return of income referred to in that sub-paragraph and the accounts and documents, if any, accompanying it and after giving due effect to the loss, if any, carried forward under sub-section (1) of section 74

6. Grant of certificate.—(1) The Income-tax Officer shall, after making such inquiry (including the obtaining of further particulars or documents from the company) as he deems fit, by order determine the eligibility of the company for the certificate and the amount thereof

(2) Where the Income-tax Officer is satisfied that the company is so eligible, he shall grant the certificate in Form No 5 for the amount determined by him under sub-paragraph (1) and forward the same to the company together with a copy of the order under that sub-paragraph

(3) Where as a result of the inquiry, the Income-tax Officer is satisfied that the company is not eligible for the grant of the certificate, he shall, by order and for reasons to be recorded therein, reject the application and forward a copy of such order to the company

7. Appeal.—(1) Any company aggrieved by an order of the Income-tax Officer passed under paragraph 6 may appeal to the Commissioner against such order

(2) Every appeal under sub-paragraph (1) shall be filed by the company aggrieved within thirty days of the date on which the order sought to be appealed against is served on it

(3) Every appeal under sub-paragraph (1) shall be in Form No 6 and be accompanied by a certified copy of the order appealed against and where a certificate has been granted by the Income-tax Officer, also by such certificate (in original) which shall be retained by the Commissioner and dealt with in accordance with such order as he may pass under sub-paragraph (5)

(4) The Commissioner may admit an appeal after the expiration of the period specified in sub-paragraph (2) if he is satisfied that the appellant had sufficient cause for not filing it within that period

(5) The Commissioner may, after giving the appellant a reasonable opportunity of being heard, pass an order,—

(*a*) where the appeal is against an order rejecting the application for the certificate,—

(*i*) confirming the order appealed against, or

(*ii*) varying the said order and directing the Income-tax Officer to grant a certificate for an amount to be specified therein, or

(*iii*) setting aside the said order and directing the Income-tax Officer to make a fresh determination under paragraph 6,

(*b*) where the appeal is against an order granting a certificate,—

(*i*) confirming the order appealed against, or

(*ii*) varying the said order and directing the issue of a fresh certificate for an amount to be specified therein in lieu of the certificate already issued, or

(*iii*) setting aside the said order and directing the Income-tax Officer to make a fresh determination under paragraph 6, or

(*iv*) annulling the said order and cancelling the certificate issued

Provided that the Commissioner shall not pass an order cancelling the certificate issued or directing the issue of a fresh certificate for a lesser amount than that for which the certificate was originally granted, unless the appellant has been given a reasonable opportunity of showing cause specifically against such cancellation or direction

(6) The Commissioner may, before disposing of an appeal, make such further inquiry as he thinks fit or by order, direct the Income-tax Officer to, make such inquiry and report the result thereof to him

(7) The Commissioner may, where he considers it necessary so to do, require the presence of the Income-tax Officer at the time of the hearing of the appeal

(8) A copy of the order passed under sub-paragraph (5) or sub-paragraph (6), as the case may be, shall be given to the appellant

8. Production of certificate before the Income-tax Officer.—The Income-tax Officer before whom a certificate is produced shall grant a receipt in respect thereof in Form No 7 and shall thereafter proceed to adjust the amount shown on the certificate or refund such amount or part thereof, as the case may be, in accordance with the provisions of sub-section (3) of section 280ZA

9. Modification of orders and certificates under certain circumstances.—(1) With a view to rectifying any mistake apparent from the record, the Commissioner may, by order in writing, amend any order passed by him under paragraph 7 and the Income-tax Officer may, by order in writing, amend any order passed by him under paragraph 6

(2) Any order under sub-paragraph (1) may be made by the Commissioner or the Income-tax Officer, as the case may be, either on his own motion or on an application by the company in relation to which the order was passed

(3) Where on completion of the regular assessment or as a result of an order under section 154 or section 250 or section 254 or section 260 or section 262 or section 264 the Income-tax Officer finds that the tax which the company is liable to pay in respect of its qualifying capital gains for the relevant year is determined in an amount which is lower than the amount with reference to which a certificate has already been granted to it, he shall proceed to make a fresh determination under paragraph 6

(4) No order under sub-paragraph (1) which prejudicially affects the company, to whom the certificate was originally issued, and no order under sub-paragraph (3) shall be made unless the officer passing the order has given notice to such company of his intention so to do and has allowed it a reasonable opportunity of being heard

(5) With a view to giving effect to an order under sub-paragraph (1) or sub-paragraph (3), the Income-tax Officer may, if the certificate has not been produced before him, recall the certificate at any time after action under either of the said sub-paragraphs has been initiated and thereafter the certificate shall be dealt with in accordance with such order

(6) Where at any time after action has been initiated under sub-paragraph (1) or sub-paragraph (3), the Income-tax Officer finds that the relevant certificate has already been produced before him and that—

(*i*) no adjustment or payment has been made in pursuance of sub-section (3) of section 280ZA, he may deal with the certificate in accordance with his order under either of the said sub-paragraphs,

(*ii*) a part of the amount covered by the certificate has been adjusted and the payment of the balance has not been made under the provisions of the said sub-section, he may cancel the certificate in so far as it relates to the amount of such balance and thereafter, where necessary, issue a fresh certificate in accordance with his order under either of the said sub-paragraphs,

(*iii*) the whole of the amount covered by the certificate has been adjusted or paid under the aforesaid sub-section, or in a case falling under clause (*ii*) the amount already adjusted is in excess of the amount determined under the order aforesaid, he may serve upon the company a notice of demand under section 156 for the sum by which the amount of the certificate originally issued or, as the case may be, the amount adjusted or paid exceeds the amount determined under the order aforesaid, as if it were a sum payable in consequence of any order passed under the Act and all the provisions of the Act shall apply accordingly

10. Intimation of transfer of building or land.—Where a capital asset, being building or land, or any right in building or land, acquired or, as the case may be, constructed in the area to which the undertaking of the company is shifted, is transferred by the company within a period of five years from the date of acquisition or, as the case may be, the date of completion of construction to any person other than the Government, a local authority, a corporation established by a Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (I of 1956), the principal officer of the company shall, within fifteen days of such transfer, send an intimation thereof in writing to the Income-tax Officer.

11. Service of notices, orders and certificates.—All notices, orders and certificates issued under this Scheme may be addressed and served in the manner specified in section 282

12. Issue of duplicate certificate.—(1) In the event of loss or destruction of a certificate the amount shown whereon has not already been adjusted or refunded by the Income-tax Officer under section 280ZA, he may, on application made to him by the company and after making such inquiry as he deems fit, issue a duplicate of such certificate

Provided that no such application for a duplicate shall be entertained after the expiry of one year from the date of the original certificate

(2) Where a duplicate has been issued under sub-paragraph (1), it shall bear the endorsement

DUPLICATE OF CERTIFICATE BEARING BOOK NO . VOUCHER NO . DATED . . . . . VALID ONLY IF THE ORIGINAL HAS NOT BEEN ACTED UPON

made in red ink, and the original certificate, if and when discovered or produced thereafter, shall be of no effect

APPENDIX

FORM No 1

TAX CREDIT CERTIFICATES

Application for prior approval for shifting industrial undertaking

[See paragraph 3(2) of the Tax Credit Certificate (Shifting of Industrial Undertakings) Scheme, 1967]

I (*a*) Name of the company

(*b*) Date of incorporation/conversion of the company as/into a public company

(*c*) Place of registration and location of Head Office

(*d*) Whether the company is assessed to income-tax, and, if assessed, the designation of the Income-tax Officer by whom the last assessment was made

State
City/Town
Income-tax Circle/Ward/District

G I R No

II (*a*) Present business(es) of the company

(*b*) Address at which the industrial undertaking which is proposed to be shifted is situate

(*c*) Year in which such industrial undertaking was set up

(*d*) Nature of the business in which such industrial undertaking is engaged

(*e*) Whether such industrial undertaking is situate in an area declared to be an urban area by the Central Government

(*f*) Whether approval of the State/Municipal authorities has been obtained to the proposed shifting

(*g*) Number of workers employed in such industrial undertaking

(*h*) Total area of land (including covered portion) which is expected to be released as a result of the shifting

III (*a*) The area (with complete address) to which the industrial undertaking is proposed to be shifted

(*b*) (*i*) Whether such area is the same in which such undertaking is situate at present

(*ii*) Whether such area has been declared to be an urban area by the Central Government

(*c*) Whether the company is owning any other industrial undertaking in such area If so, give details

(*d*) Whether the nature of the business in which such industrial undertaking is engaged is proposed to be changed on its shifting to the new area If so, give details

(*e*) Whether the industrial undertaking is proposed to be expanded/reduced on its shifting to the new area

(*f*) Whether the industrial undertaking is being partially/wholly shifted to the new area If the industrial undertaking is being partially shifted to the new area, details of the nature and extent of the activities which will continue to be carried on in the existing area may please be given

(*g*) Approximate date by which shifting is expected—

(*i*) to commence

(*ii*) to be completed

IV (*a*) Whether the company has entered into any agreement(s) for the sale or transfer of the buildings or lands or any rights in buildings or lands used for the purposes of the industrial undertaking If so, copies of such agreement(s) may please be attached

(*b*) Whether the company has entered into any agreement(s) for the acquisition of any buildings or lands or any rights in buildings or lands to be used for the purposes of the business of the industrial undertaking to be set up in the new area If so, a copy of the agreement(s) may please be attached

V Miscellaneous information (including any information which the company may consider to be relevant)

Declaration

I hereby declare that what is stated above is true to the best of my information and belief

(*Signature of the principal officer of the company*)

Place

Date

FORM No 2

TAX CREDIT CERTIFICATES

Application for extension of time for acquiring lands or constructing building, etc.

[See paragraph 4(2) of the Tax Credit Certificate (Shifting of Industrial Undertakings) Scheme, 1967]

To

The Secretary,
Central Board of Direct Taxes,
New Delhi

Sir,

I, , being the principal officer of Messrs request that the three year period for acquiring

lands or constructing buildings for the purposes of the company's business in the area to which the undertaking is proposed to be shifted/for shifting the company's machinery or plant and other effects and transferring its establishment to such area, may be extended by a further period of
months/years

2 I give below the necessary particulars —

(*a*) Place of registration and location of the Head Office of the company

(*b*) Whether the company is assessed to income-tax, and, if assessed, the designation of the Income-tax Officer by whom the last assessment was made

State
City/Town
Income-tax Circle/
Ward/District

(*c*) Date and number of the order under which prior approval to shift the industrial undertaking was granted by the Board

(*d*) The progress made by the company up to the date of this application in—

(*i*) acquiring lands or constructing buildings for the purposes of the business of the company in the area to which the undertaking is proposed to be shifted,

(*ii*) shifting its machinery or plant and other effects and transferring its establishment to such area

(*e*) The amount of expenditure incurred by the company in connection with (*i*) and (*ii*) in (*d*) above

(*f*) Further period for which extension is sought by the company

(*g*) The further plan to carry out the items of work in (*d*) above during the period for which extension is sought and the amount of expenditure proposed to be incurred by the company for the same

(*h*) Brief reasons explaining why—

(*i*) the company cannot acquire lands or construct buildings for the purposes of its business in the area to which the undertaking is proposed to be shifted or shift its machinery or plant and other effects and transfer its establishment to such area during the three year period,

(*ii*) a shorter period than that requested by the company will not be adequate for the purposes specified in (*i*) above

(To be furnished in an Annexure, if the space provided is not sufficient)

Declaration

I hereby declare that what is stated above is true to the best of my information and belief

.. ..
(*Signature of the principal officer of the company*)

Place

Date

FORM No 3

TAX CREDIT CERTIFICATES

Application for grant of Tax Credit Certificates

[See paragraph 5(3) of the Tax Credit Certificate (Shifting of Industrial Undertakings) Scheme, 1967]

To

The Income-tax Officer,

Sir,

I, , being the principal officer of Messrs .
(name of the company)
. request that a tax credit certificate under section 280ZS of the Income-tax Act, 1961, be granted for the appropriate amount to which the said company is entitled The relevant particulars are furnished hereinbelow —

1 Place of registration and location of Head Office

2 G I R No

3 Assessment year for which the qualifying capital gains are chargeable to tax

4 Whether the return of income in respect of the assessment year specified against item (3) has been furnished .

5 The amount of qualifying capital gains declared in the return of income aforesaid

6 Tax payable by the company on the qualifying capital gains .

7 Date and number of the order under which prior approval to shift the industrial undertaking was granted by the Board

8 Date and number of the order, if any, under which the period of three years for acquiring lands or constructing buildings in the area to which the undertaking is proposed to be shifted or for shifting its machinery or plant etc to such area, was extended by the Board

9 Details of expenditure incurred by the company for the purposes specified in section 280ZA (2)(*a*)

Nature of expenditure	Amount of expenditure incurred within a period of one year from the date of Board's approval under sec 280ZA	Amount of expenditure incurred in the second year from the date of approval referred to in column 2	Amount of expenditure incurred in the third year from the date of approval referred to in column 2	Amount of expenditure incurred in the further period, if any, allowed by the Board	Total
1	2	3	4	5	6
(*i*) Expenditure in acquiring lands or constructing buildings for the purposes of the business of the company in the area to which the undertaking is proposed to be shifted					
(*ii*) Expenditure in shifting its machinery or plant and other effects and transferring its establishment to such area					
GRAND TOTAL					

10. Amount of tax credit claimed

Declaration

I hereby declare that what is stated above is true to the best of my information and belief

. . . . .

(*Signature of the principal officer of the company*)

Place . . . .

Date . . . .

NOTE —The application must be in duplicate

FORM No. 4

TAX CREDIT CERTIFICATES

Application for grant of Tax Credit Certificate

[See paragraph 5(3) of the Tax Credit Certificate (Shifting of Industrial Undertakings) Scheme, 1967]

To

The Income-tax Officer

Sir,

I, , being the principal officer of Messrs . request that a tax credit
(name of the company)
certificate under section 280ZA of the Income-tax Act, 1961, be granted for the appropriate further* amount to which the said company is entitled The relevant particulars are furnished hereinbelow —

1 Place of registration and location of Head Office

2 G I R No

3 Assessment year for which qualifying capital gains are chargeable to tax

4 Particulars of any certificate(s) previously granted in respect of the qualifying capital gains referred to at item 3

Book No
Voucher No
Amount Rs
Date

5 In case a certificate has been previously granted to the company in respect of the qualifying capital gains referred to at item 3, state the reason(s) for making a further application in respect of the same qualifying capital gains

6 Date of the order of regular assessment

7 Whether the amount of qualifying capital gains determined in the regular assessment has been modified by an order in appeal, revision or any other proceeding under the Income-tax Act, 1961, the date of such order and the section under which such order has been passed

8 The amount of qualifying capital gains determined in the regular assessment as modified by an order, if any, referred to in item (7)

9 Tax payable on the qualifying capital gains specified against item (8)

10 Date and number of the order under which prior approval to shift the industrial undertaking was granted by the Board

11 Date and number of the order, if any, under which the period of three years for acquiring lands or constructing buildings in the area to which the undertaking is proposed to be shifted or for shifting its machinery or plant, etc , to such area, was extended by the Board

12 Details of expenditure incurred by the company for the purposes specified in section 280ZA(2)(*a*):

Nature of expenditure	Amount of expenditure incurred within a period of one year from the date of Board's approval under sec 280ZA	Amount of expenditure incurred in the second year from the date of approval referred to in column 2	Amount of expenditure incurred in the third year from the date of approval referred to in column 2	Amount of expenditure incurred in the further period, if any, allowed by the Board	Total
1	2	3	4	5	6
(*i*) Expenditure in acquiring lands or constructing buildings for the purposes of the business of the company in the area to which the undertaking is proposed to be shifted					
(*ii*) Expenditure in shifting its machinery or plant and other effects and transferring its establishment to such area					
GRAND TOTAL					

13 Amount of tax credit to which the company is entitled Rs

14 Amount of tax credit claimed, that is, amount of tax credit shown against item 13 *minus* the amount of tax credit previously granted Rs

Declaration

I hereby declare that what is stated above is true to the best of my information and belief

Place

Date

(*Signature of the principal officer of the company*)

NOTE—The application must be in duplicate
*Where any application has been made in Form No 3 for the same assessment year, the word "further" should be scored out

FORM No. 5

TAX CREDIT CERTIFICATES

COUNTERFOIL FORM NO 5

[See paragraph 6(2) of the Tax Credit Certificate (Shifting of Industrial Undertakings) Scheme, 1967]

Tax Credit Certificate

NATIONAL EMBLEM
GOVERNMENT OF INDIA

Certificate not negotiable

Book No Voucher No

OFFICE OF THE

Certificate issued to
Messrs Ltd
(name and address)
Amount of tax credit certified

Reference No

Assessment year(s) for which Certificate is granted

Particulars of any certificate(s) previously granted in respect of the said assessment year(s)	Book No Voucher No Amount Date

INTERNAL AUDIT

A Amount of qualifying capital gains Rs

B Tax payable on the qualifying capital gains specified in (A) Rs

C Amount of expenditure incurred by the company in acquiring lands or constructing buildings for the purposes of its business in the area to which the undertaking is shifted and shifting its machinery or plant and other effects and transferring its establishment to such area, within a period of three years, from the date of the approval of the Board to such shifting, on such further period as has been allowed by the Board Rs

D Tax credit admissible Rs

E Amount(s) for which certificate(s) granted previously Rs

F Balance now due Rs

Certificate examined and found correct

(*Auditor*)

Date

FOIL FORM NO 5

[See paragraph 6(2) of the Tax Credit Certificate (Shifting of Industrial Undertakings) Scheme, 1967]

Tax Credit Certificate

NATIONAL EMBLEM
GOVERNMENT OF INDIA

Certificate not negotiable

Book No Voucher No

OFFICE OF THE

Whereas the amount of tax payable by
(name and address)
on its qualifying capital gains for the assessment year(s) 19 —19. .is Rs.

And whereas the amount of expenditure incurred by such company in acquiring lands or constructing buildings for the purposes of its business in the area to which the undertaking is shifted and shifting its machinery or plant and other effects and transferring its establishment to such area, within a period of three years, from the date of the prior approval of the Board to such shifting, or such further period as has been allowed by the Board, is Rs

Now, therefore, it is certified that in respect of the assessment year(s) aforesaid the company is entitled to a tax credit of Rs
(Rupees) under section 280ZA of the Income-tax Act, 1961, read with the Tax Credit Certificate (Shifting of Industrial Undertakings) Scheme, 1967

(*Income-tax Officer*)

Place

Date and Seal

The amount shown on the obverse has been dealt with as under —

A Adjusted against tax/penalty/interest/ other sums in respect of the assessment year —

19 —19	Rs	on	(date)
19 —19	Rs	on	
19 —19	Rs	on	
19 —19	Rs	on	

TOTAL Rs

B Refunded under Refund Voucher
No
Book No
Rs on

GRAND TOTAL Rs *

The amount shown on the obverse has been dealt with as under —

A Adjusted against tax/penalty/interest/ other sums in respect of the assessment year —

19 —19	Rs	on	(date)
19 —19	Rs	on	
19 —19	Rs	on	
19 —19	Rs	on	

TOTAL Rs

B Refunded under Refund Voucher
No
Book No
Rs on

GRAND TOTAL Rs *

Signature
(*Income-tax Officer*)
Circle/Ward/District
Place

*This should tally with the amount shown on the obverse

*This should tally with the amount shown on the obverse

FORM No. 6

TAX CREDIT CERTIFICATES

Appeal to
(Appellate authority)

[See paragraph 7(3) of the Tax Credit Certificate (Shifting of Industrial Undertakings) Scheme, 1967]

(Designation of the appellate authority).

† No. . of. 19 —19

Name and address of the appellant

Assessment year(s) to which the claim for tax credit certificate relates

Income-tax Officer passing the order appealed against

Paragraph and sub-paragraph of the Tax Credit Certificate (Shifting of Industrial Undertakings) Scheme, 1967, under which the Income-tax Officer passed the order appealed against

Date of the order appealed against

Date of service of the order appealed against

No and date of the tax credit certificate, if any, in respect of which the appeal is made

*Relief claimed in appeal

Whether personal hearing is desired

Address at which notices may be sent to the appellant

Signature
(*Appellant*)

STATEMENT OF FACTS

GROUNDS OF APPEAL

Signature . ...
(Appellant)

FORM OF VERIFICATION

I, ., being the principal officer of.. . . .
(name). . . , the appellant, do hereby declare that what is stated above is true to the best of my information and belief.

Place . . *Signature* . . ..
Date .. *Address* . . ..

NOTE —The memorandum of appeal, statement of facts and the grounds of appeal must be in duplicate and should be accompanied by a copy of the order appealed against and where the appeal is against an order granting a tax credit certificate, by such certificate

†These particulars will be filled in in the office of the appellate authority.

*If the space provided herein is insufficient, separate enclosures may be used for the purpose

FORM No 7

TAX CREDIT CERTIFICATES

Receipt for Certificate produced before the Income-tax Officer

[See paragraph 8 of the Tax Credit Certificate (Shifting of Industrial Undertakings) Scheme, 1967]

Received from . . . . Tax
(name and address of the company)
Credit Certificate (Shifting of Industrial Undertakings) Book No. . .. .
Voucher No . . dated ....
for Rs (Rupees . ...)
(in words)

. ...
(Signature of the Income-tax Officer)
. *Circle/Ward/District*

Place ..

Date .

URBAN AREAS: SEC. 280Y(d) of 1961 ACT

(Notification No S O 3419, dated 22nd September 1967)

In pursuance of clause (*d*) of section 280Y of the Income-tax Act, 1961 (XLIII of 1961), the Central Government hereby declares the areas shown in column (3) of the

Schedule hereto annexed and forming part of the territory of the State or the Union territory, as the case may be, specified in the corresponding entry in column (2) thereof to be "urban areas" for the purposes of Chapter XXII-B of the said Act, namely —

SCHEDULE

Serial No	Name of the State or the Union territory	Details of the area
(1)	(2)	(3)
1	Bihar	Areas within the municipal limits of— (*i*) Patna Town, (*ii*) Ranchi Town
2	Delhi	All areas in the Union territory of Delhi in which industrial use has been declared as a non-conforming use in the Master Plan prepared under section 7 of the Delhi Development Act, 1957 (LXI of 1957)
3.	Gujarat	Areas within the municipal limits of— (*i*) Ahmedabad City, (*ii*) Baroda City, (*iii*) Bhavnagar City, (*iv*) Jamnagar City, (*v*) Rajkot City, (*vi*) Surat City
4	Kerala	(1) Areas within the limits of— (*i*) Cochin municipality, (*ii*) Ernakulam municipality, (*iii*) Mattancherry municipality (2) Areas included in the Revenue Wards Nos 1 to 25 in the Calicut Municipal Corporation
5	Tamil Nadu	Areas within a radius of— (*i*) 10 miles from the Collector's office in Coimbatore, (*ii*) 20 miles from Fort St George in Madras, (*iii*) 10 miles from the Collector's office in Madurai
6	Maharashtra	(*i*) Bombay-Thana area (*ii*) Poona-Pimpri-Chinchwad area (*iii*) Khopoli area (*iv*) Areas within the limits of— (*a*) Nagpur Municipal Corporation, (*b*) Sholapur Municipal Corporation
7	Manipur	Area within the limits of Imphal Town
8	Mysore	Area within the limits of Bangalore Corporation
9	Punjab	Areas within the municipal limits of— (*a*) Amritsar, (*b*) Jullundur, (*c*) Ludhiana
10	Uttar Pradesh	Areas within the limits of— (*i*) Agra Corporation, (*ii*) Ferozabad Municipality, (*iii*) Kanpur Corporation, (*iv*) Lucknow Corporation, (*v*) Meerut Municipality, (*vi*) Varanasi Corporation

FINANCIAL INSTITUTIONS: SECS. 280ZB AND 280ZD OF 1961 ACT

(Notification No S O 3547, dated 12th November 1965)

In pursuance of clause (*i*) of the proviso to sub-section (2) of section 280ZB and of clause (*i*) of the proviso to sub-section (5) of section 280ZD of the Income-tax Act, 1961 (XLIII of 1961), the Central Government hereby notifies the institutions mentioned below for the purposes of those clauses —

1 The Industrial Development Bank of India, established under the Industrial Development Bank of India Act, 1964 (XVIII of 1964),

2 The Industrial Finance Corporation of India, established under the Industrial Finance Corporation Act, 1948 (XV of 1948);

3 All State Financial Corporations established under the State Financial Corporations Act, 1951 (LXIII of 1951),

4 The Industrial Credit and Investment Corporation of India Ltd ;

5 The Madras Industrial and Investment Corporation of India Ltd ,

6 Industrial Development Corporations established in India by State Governments,

7 International Bank for Reconstruction and Development,

8 International Finance Corporation, Washington;

9 Kreditanstalt für Wiederaubau, West Germany,

10 Agency for International Development, United States of America,

11 Export-Import Bank, United States of America,

12 Export-Import Bank, Japan,

13 Ente Naxionale Idrocarburi, Italy;

14 Medio Banca, SPA Milan, Italy,

15 Compagnie Française d'Assurance au Commerce Exterieur, France;

16. Commonwealth Development Finance Company Ltd , London;

17. Medio Credito Centrale, Rome, Italy,

18 Office National du Ducroire, Brussels,

19 The National Industrial Development Corporation, New Delhi (*Added by Notif No S O 4361, dated 5-12-1967*),

20 The Life Insurance Corporation of India (*Added by Notif. No S. O 3498, dated 28-9-1968*)

F

EXEMPTIONS FROM TAX AND OTHER NOTIFICATIONS

EXEMPTIONS, ETC., NOTIFIED UNDER SEC. 60(1) OF 1922 ACT*

I

Incomes excluded from total income altogether

(*F D Notification No 878-F—I T, dated 21st March 1922, as amended or added to from time to time*)

The following classes of income shall be exempt from the tax payable under the said Act and they shall not be taken into account in determining the total income or salary of an assessee for the purposes of the said Act †[except for the purposes of sub-section (4) of section 48] —

(1) *Deleted* by F D (C. R) Notification No 8—I T, dated 24th January 1942.

(2) Sums paid in pursuance of Article 3 of the agreement, dated 17th August 1825, between the British Government and the King of Oudh

(3) Income derived from the Bua tax defined in clause (*c*) of section 2 of the Teri Dues Regulation, 1902.

(4) The salary and allowances paid by a State in India during the period of deputation to any person deputed by the State for training in British India.

(5) Scholarships granted to meet the cost of education (*See s 10(16) of the 1961 Act*)

(6) Such portion of the income of a member of His Majesty's Naval, Military or Air Forces, British or Indian, or of the Royal Indian Marine as is compulsorily payable by him under the orders, or with the approval of Government to a mess, wine or band fund

(7) The allowances attached to—

The Victoria Cross,
The Military Cross,
The Order of British India,
The Indian Order of Merit,
The King's Police Medal,
The Indian Police Medal

(8) *Deleted* by Notification No. S O 1839, dated 25th June 1963, with effect from 1st April 1963

*Under s 297(2)(*l*) of the 1961 Act, these Notifications shall, to the extent to which provision has not been made under that Act, continue in force until rescinded by the Central Government

†The reference to sub-s (4) of s 48 in the preamble to this Notification is a reference to the old sub-section before the amendments of 1939 The whole of s 48 was replaced by a new one by s 55 of the Indian Income-tax (Amendment) Act, 1939 (VII of 1939), and the new sub-s (4) did not correspond to the old sub-section The reference to the old sub-section was material only for the assessments up to and including the year 1938-39 and for certain cases for 1939-40 also where sub-ss (4) and (5) of s 6 of the Indian Finance Act, 1939, applied For assessments after the year 1939-40, the words "except for the purposes of sub-section (4) of section 48" would be obsolete

(9) "Jangi Inams" awarded to Indian Officers, Indian other ranks and followers in respect of services in the Great War

(10) *Deleted* } by Notification No S R O 1335, dated 21st June 1955, with
(11) *Deleted* } effect from 1st April 1955

(12) The income of a University or other educational institution existing solely for educational purposes and not for purposes of profit (*See s 10(22) of the 1961 Act.*)

(13) The income of "Thana Funds" administered by Political Agents in Kathiawar and of the "Secunderabad Local (Akbari, etc) Fund" Administered by the Resident at Hyderabad

(13-A) The income of the Rewa Kantha Mewas Administrations Fund, and of the Sankheda Mewas Road Fund administered by the Political Agent, Rewa Kantha

(13-B) The income of—

(*a*) the following funds controlled by the Resident for the States of Western India, namely —

The Kathiawar Consolidated Local Fund, the Rajkot Civil Station Land Improvement Fund, the Rajkot Civil Station Fund, the Kathiawar Mounted Police Fund, the Consolidated Local Fund, Mahi Kantha, the Consolidated Local Fund, Banas Kantha, including the Palanpur Agency Educational, Sihori, Deodar, Varahi, Santalpur Dispensaries, and Survey Funds, and the Sadar Bazar Fund,

(*b*) the village Police Funds, Kankrej, Deodar, Suigam, Varchi, Santalpur, controlled by the Political Agent, Sabar Kantha Agency, and

(*c*) the Wadhwan Civil Station Fund controlled by the Political Agent, Eastern Kathiawar Agency

(13-C) *Deleted* by F D (C R) Notification No 13—I.T , dated 24th December 1938

(13-D) The income of Regimental Institutes derived from rebates payable by Institute Contractors

(13-E) The interest on securities held by the Kathiawar Education Provident Fund

(13-F) The income of recognised Regimental Thrift and Savings Funds, the assets of which consist solely of deposits made by members and the profits earned by the investment thereof

(13-G) The income of the Kolhapur Residency Area Fund

(14) *Deleted* }
(15) *Deleted* } by F D (C R) Notification No 8—I T , dated 24th January 1942
(16) *Deleted* }

(16-A) *Deleted* by F D (C R) Notification No 13—I T , dated 29th March 1941

(16-B) *Deleted* by F D (C R) Notification No 8—I T , dated 24th January 1942

(17) The salaries of the correspondent of the International Labour Office, New Delhi, and his staff

(18) The salaries of the Organiser and Manager of the Branch Office of the League of Nations, Bombay, and his staff

(19) The salaries of Khasadars, Levies and Badraggas employed in the tribal territory on the North-West Frontier and of all persons employed in the tribal levy service in Baluchistan

(20) *Deleted*
(21) *Deleted*
(22) *Deleted*
(23) *Deleted*
} by F D (C R) Notification No 5—I T , dated 18th March 1939

(24) *Deleted* by Notification No S R O 272, dated 28th February 1951, with effect from 1st March 1951

(25) The salaries of the light-house keepers of light-houses in the Red Sea

(26) *Deleted* by Notification No S R O 272, dated 28th February 1951, with effect from 1st March 1951

(27) The interest on Mysore Durbar Securities (By Notification No S R O 2338, dated 5th July 1954, this item is *omitted* for the purposes of making any assessment subsequent to the year ending on 31st March 1954)

(28) Pensions granted to officers of His Majesty's Naval, Military or Air Forces, British or Indian, or of the Auxiliary Force, India, or of the Indian Territorial Force, or of the Royal Indian Marine in respect of wounds or injuries received in action or in the performance of their duties as members of such forces otherwise than in action

(28-A) Extraordinary pensions granted to Civil Officers excluding family pensions granted as the result of the death of such an officer under Chapter XXXVIII of the Civil Service Regulations, or the Army Regulations, India, as the case may be, in respect of wounds or injuries received in the performance of their duties

(29) Pensions granted to members of His Majesty's Naval, Military or Air Forces, British or Indian, or of the Auxiliary Force, India, or of the Indian Territorial Force, or of the Royal Indian Marine, who have been invalided from service with such forces on account of bodily disability attributable to, or aggravated by, such service

(30) Value of rations issued in kind or money allowances paid in lieu thereof, to any officer or other rank in His Majesty's Naval, Military or Air Forces, British or Indian, or in the Auxiliary Force, India, or in the Indian Territorial Force, or in the Royal Indian Marine

(31) Value of rent-free quarters occupied by, or money allowance paid in lieu thereof to, Indian Officers, British Warrant and non-commissioned officers and men of His Majesty's Military or Air Forces, and British and Indian Warrant Officers of His Majesty's Naval and Marine Forces, in all cases irrespective of whether the individual concerned is married or single

(32) Conservancy allowance granted in lieu of free conservancy to non-departmental Warrant and non-commissioned officers of the India Unattached List, departmental non-commissioned officers of the India Unattached List not in receipt of consolidated rates of pay and Warrant and non-commissioned officers of the permanent staff of the Auxiliary and Territorial Forces

(33) The value of the free education provided for the children of British Warrant and non-commissioned officers and any grants-in-aid made to British Warrant and non-commissioned officers in lieu of the provision of free education for their children

(34) *Deleted* by F D (C.R) Notification No 6—I T , dated 13th July 1940

(35) Deferred pay within the meaning of paragraph 254, Pay and Allowance Regulations for the Army in India, Part II (*now rules 561-565, Pay and Allowance Regulations, Volume I, read with A I (I) 221 of 1942*) paid to (Indian) soldiers or non-commissioned officers of the Indian Army

NOTE—Indian Warrant Officers Class II who are also non-commissioned Officers, though not called as such, are entitled to the deferred pay and are also eligible for the exemption

(35-A) Shore allowance granted to Warrant Officers of the Royal Indian Navy when employed on Marine Survey duties under paragraph 89(*c*) of the Regulations for the Royal Indian Navy, Volume I

(36) *Deleted* by Notification No S R O 1335, dated 21st June 1955, with effect from 1st April 1955

(37) The perquisite represented by the right of any of the officers specified in the annexed list to occupy free of rent as a place of residence any premises provided by the Central Government, the Crown Representative or the State Government as the case may be

List of Officers

The President

The Commander-in-Chief

The Governor of a Part A State

** *Deleted* by Notification No S R. O 1536, dated 30th June 1956

Any first class Resident of the Indian Political Department Service

(38) Such part of income in respect of which the said tax is payable under the head "property" as is equal to the amount of rent payable for a year but not paid by a tenant of the assessee and so proved to be lost and irrecoverable, where—

(*a*) the tenancy is bona fide,

(*b*) the defaulting tenant has vacated, or steps have been taken to compel him to vacate the property,

(*c*) the defaulting tenant is not in occupation of any other property of the assessee,

(*d*) the assessee has taken all reasonable steps to institute legal proceedings for the recovery of the unpaid rent or satisfies the Income-tax Officer that legal proceedings would be useless, and

(*e*) the annual value of the property to which the unpaid rent relates has been included in the assessed income of the year during which that rent was due and income-tax has been duly paid on such assessed income (*See s 24(1)(x) of the 1961 Act and r 4 of the 1962 Rules*)

(39) The lump grants made by Government to the Indian Church—

(*1*) for the provision of episcopal supervision and ministrations,

(*2*) for the payment of allowances to clergymen entertained in lieu of Chaplaincies reduced, and

(*3*) in lieu of the grants-in-aid at present given for the entertainment of clergymen of the Additional Clergy Society under articles 602 and 603 of the Civil Service Regulations

(40) When in any year an assessee has ceased to be an employee participating in a recognised Provident Fund and has been declared by the employer maintaining the Fund not to be eligible to receive the whole of the accumulated balance due to him, so much of his income as is assessable for that year shall be exempted from income-tax and shall be excluded from the computation of his total income for the purposes of the said Act as is equivalent to so much of the accumulated balance due to him as has not been paid or is not payable to him, and if such amount exceeds the amount of his income in that year, so much of his income in the following year or years as is equal to the amount of such excess shall be so exempted and excluded in such year or years

Provided that this exemption shall not apply to that part of the accumulated balance which consists of employer's contributions and interest thereon and is credited to the account of the employee after 1st August 1961

(41) Income of a Service Fund derived from interest on Government securities or interest on funds deposited with the Central or any State Government

For the purpose of this exemption, a Service Fund means a fund established under the authority of, or with the permission of, the Central or any State Government for the purpose of securing deferred annuities to the subscribers, or payments to them in the event of their resignation or dismissal from the service in which they are employed, or provision for their wives or children after their death, or payments to their estate or their nominees upon their death, to which servants of the Government are alone admissible as subscribers or members and the funds of which are either deposited with the Central or any State Government or invested in Government securities

II

Incomes included in total income but exempt from income-tax and not from super-tax

The following classes of income shall be exempt from the tax payable under the said Act, but shall be taken into account in determining the total income of an assessee for the purposes of the said Act —

(1) *Deleted* by Notification No. 66—I T, dated 28th May 1957, and corrigendum F No 42 (216)—I T /56, dated 27th December 1957

(2) Such part of the profits or gains of a firm which has discontinued its business, profession or vocation as is proportionate to the share of an assessee in the firm at the time of such discontinuance, †[if income-tax has at any time been charged on such business, profession or vocation under the Indian Income-tax Act, 1918 (VII of 1918), or] if an assessment has been made on the firm in respect of such profits or gains under sub-section (1) of section 25 of the Indian Income-tax Act, 1922 (XI of 1922) [F D. (C R) Notification No. 21, dated 12th October 1929]

*(3) Interest receivable on the following securities issued by the Mysore Government —

(*1*) The Mysore Government 5 per cent Loan of 1955

(*2*) The Mysore Government 4 per cent Conversion Loan 1953-63

(*3*) Mysore 3½ per cent Loan 1951-58

†This part of the Notification ... nger be in operation because in the 1961 Act there is no provision corresponding to s 25 ... 2 Act

*(By Notification No S R ... 5th July 1954, this exemption applies for the purposes of making any assessment ... ending on 31st March 1954)

(*4*) Mysore 3 per cent Loan 1956-61

(*5*) The Mysore Government 3 per cent Loan of 1958.

III

Incomes exempt from super-tax but not from income-tax

(*Notification No. 47, dated 9th December 1933*)

The Governor General in Council is pleased to exempt from super-tax—

so much of the income of any Investment Trust Company as is derived from dividends paid by any other company which has paid or will pay super-tax in respect of the profits out of which such dividends are paid

Explanation —For this purpose an Investment Trust Company means a company in respect of which the Governor General in Council is satisfied that —

(*i*) it is a company having for its principal business the acquisition and holding of investments in the stocks, shares, bonds, debentures or debenture stocks of other companies or in securities issued by public authorities,

(*ii*) it is not a company formed for the purpose of, or engaged in acquiring or exercising control over any other company or group of companies or enabling any other persons to acquire or exercise such control,

(*iii*) it is a company deemed under clause (*b*) of the *Explanation* to sub-section (1) of section 23A of the said Act, to be a company in which the public are substantially interested

(*Notification No 9, dated 21st February 1948*)

In exercise of the powers conferred by sub-section (1) of section 60 of the Indian Income-tax Act, 1922 (XI of 1922), and in partial modification of the Notification of the Government of India in the late Finance Department (Central Revenues) No 47, dated the 9th December, 1933, the Central Government is pleased to order that the said Notification shall not, with effect from the assessment year 1948-49, apply to any Investment Trust Company the control and management of whose affairs is not situated wholly in the States of India.

Modification under sec. 60 of 1922 Act

(*Notification No 23, dated 11th June 1927*)

In exercise of the powers conferred by section 60 of the Indian Income-tax Act, 1922 (XI of 1922), the Governor General in Council is pleased to make the modification hereinafter defined in respect of income-tax in favour of the following class of income, namely income derived from a railway or tramway business.

Modification

An assessee deriving income from a railway or tramway business may at his option require that in computing the profits or gains of such business the following allowance shall be made in lieu of the allowances specified in clause (*v*), clause (*vi*) and clause (*vii*) of sub-section (2) of section 10 of the said Act, namely, the actual expenditure incurred by the assessee during the previous year on repairs, replacements

and renewals of plant, machinery, buildings and furniture which are the property of the assessee.

Provided that an assessee who in any year has exercised the option hereinbefore conferred shall not be entitled save with the consent of the Commissioner of Income-tax to withdraw that option in any subsequent year

Provided further that nothing in this notification shall apply to an electric tramway.

EXEMPTIONS NOTIFIED UNDER SEC. 60A OF 1922 ACT*

I

(Notification No. S R O 669, dated 1st May 1951)

In exercise of the powers conferred by section 60A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government hereby makes the following exemption —

No income-tax or super-tax shall be payable by an assessee on the interest receivable on the 3 per cent tax-free loan 1966-76 issued by the former Government of Bhopal so long as such interest is received in the State of Bhopal and is not brought into any other part of the taxable territories Such interest shall be included in the total income of the assessee for the purposes of sections 16 and 56 of the Indian Income-tax Act, 1922

II

(Notification No. S R O 2068, dated 22nd December 1951)

In exercise of the powers conferred by section 60A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government directs that any income received by the following persons as their maintenance allowance out of the public revenues shall be exempt from income-tax and super-tax and shall not be included in their total income or total world income —

(1) Sir Tukoji Rao Holkar of Indore

(2) His Highness Maharawal Shri Sir Indrasinhji Pratapsinhji, K C I E, of Bansda up to 13th November, 1951

(3) Rana Shri Ranjitsinhji Gambhirsinhji, C I E, of Jambughoda

(4) His Highness Shri Sir Bhavani Sinhji Bahadur, K C S I, of Danta

This Notification shall have effect from the assessment year 1950-51 onwards

III

(Order 68-st(Int)-IT 49, dated 23rd May 1952)

Any income falling within the following classes shall be exempt from income-tax and super-tax and shall not be included in the total income or total world income of the persons receiving them —

(1) In the case of the members of the ruling family of Travancore, any allowance paid by Government to—

*Under s. 297(2)(*l*) of the 1961 Act, these Notifications shall, to the extent to which provision has not been made under that Act, continue in force until rescinded by the Central Government

(1) Her Highness Sethu Lakshmi Bayi, Senior Maharani of Travancore.

(2) His Highness the Elaya Raja Shri Marthanda Varma.

(3) Shrimati Lakshmi Bayi, First Princess of Travancore.

(4) Shrimati Lalitambha Bayi, Second Princess of Travancore.

(5) Shrimati Indira Bayi, Third Princess of Travancore

(6) Gouri Rukmini Bayi, Fourth Princess of Travancore

(7) Gouri Uma Bayi, Fifth Princess of Travancore

(8) Gouri Parvati Bayi, Sixth Princess of Travancore

(9) Gouri Parvati Bayi, Seventh Princess of Travancore

(10) Gouri Laxmi Bayi, Eighth Princess of Travancore

(11) Gouri Lakshmi Bayi, Ninth Princess of Travancore

(12) Shri Rama Varma, First Prince of Travancore (Prince Moolam Thirunal).

(2) Any allowance paid by Government to the present members of the family of His Highness the Maharaja of Cochin

IV

(C-40-st(Int)-IT/52, dated 22nd August 1952)

The allowance of $\frac{\text{Rs 5 lakhs}}{\text{Rs 1 lakh}}$ paid to $\frac{\text{H H the Maharana of Udaipur}}{\text{H H the Maharaja of Kolhapur}}$ to meet certain traditional religious and charitable expenses because of the special positions of honour he occupied amongst $\frac{\text{Rajput}}{\text{Maharatha}}$ Rulers, should be treated as a part of the privy purse, and as such should not be included in the total income for purposes of income-tax assessments This concession is meant for the present Ruler only during his lifetime

V

(Notification No S. R. O 1151, dated 13th June 1953)

In exercise of the powers conferred by section 60A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government hereby makes the following exemption —

No income-tax shall be payable by an assessee on the interest receivable on the following income-tax free loans issued by the former Government of Travancore or by the former Government of Cochin, provided that such interest is received within the territories of the State of Travancore-Cochin and is not brought into any other part of the taxable territories to which the said Act applies Such interest shall, however, be included in the total income of the assessee for the purposes of section 16 of the Indian Income-tax Act, 1922 —

3 per cent tax free loan 1952-54 issued by the former Government of Travancore

3½ per cent tax free loan 1956 issued by the former Government of Travancore

3 per cent tax free loan 1953-55 issued by the former Government of Cochin

3 per cent tax free loan 1955-58 issued by the former Government of Cochin.

3½ per cent tax free loan 1956-61 issued by the former Government of Cochin.

VI

(*Notification No S R O 174, dated 9th January 1954*)

In exercise of the powers conferred by section 60A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government hereby makes the following exemption, namely —

No income-tax shall be payable by an assessee on the interest receivable on the income-tax free loans specified in the Table hereunder and issued by His Exalted Highness the Nizam's Government of Hyderabad

Provided that the said interest is received in the territories within the Hyderabad State and is not brought into any other part of the taxable territories to which the said Act applies

Provided further that such interest shall be included in the total income of the assessee for the purposes of section 16 of the said Act

TABLE

1 3 per cent income-tax free loan 1360-70 Fasli
2 2½ per cent income-tax free loan 1353 Fasli
3. 2½ per cent income-tax free Development loan 1364-69 Fasli
4 2½ per cent income-tax free Second Development loan 1365-70 Fasli

VII

(*Notification No S R O 2339, dated 5th July 1954*)

In exercise of the powers conferred by section 60A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government hereby makes the following order, namely —

No income-tax shall be payable by an assessee on the interest receivable on all deposits in the Mysore Government Savings Bank made before the 1st day of April, 1950, and on 5 years Mysore Government Savings Certificates issued prior to that date

Provided that, in the case of an assessee who would not have been resident in the taxable territories within the meaning of section 4A of the said Act but for the application of that Act to the Mysore State, the said interest is received within the territories of that State

Provided further that, in the case of any other assessee, the said interest is received within the territories of the Mysore State and is not brought into any other part of the taxable territories to which the said Act applies

Provided also that such interest shall be included in the total income of an assessee referred to in the proviso last preceding and shall not be exempt from super-tax

VIII

(*Notification No S R O 2340, dated 5th July 1954*)

In exercise of the powers conferred by section 60A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government hereby makes the following order, namely —

No income-tax shall be payable by an assessee on the interest receivable on the fourth and fifth series of debentures carrying interest at 3½ per cent per annum issued by the Mysore Central Co-operative Land Mortgage Bank Ltd and guaranteed by the Mysore Government

Provided that, in the case of an assessee who would not have been resident in the taxable territories within the meaning of section 4A of the said Act but for the application of that Act to the Mysore State, the said interest is received within the territories of that State

Provided further that, in the case of any other assessee, the said interest is received within the territories of the Mysore State and is not brought into any other part of the taxable territories to which the said Act applies

Provided also that such interest shall be included in the total income of such assessee and shall not be exempt from super-tax

SECURITIES SPECIFIED UNDER SEC. 10(4) OF 1961 ACT

(*Notification No S O. 3331, dated 19th October 1965*)

In pursuance of clause (*4*) of section 10 of the Income-tax Act, 1961 (XLIII of 1961), the Central Government hereby specifies the following securities for the purposes of that clause, namely —

(1) 4¼ per cent National Defence Loan, 1968

(2) 4¾ per cent National Defence Loan, 1972

PROVIDENT FUND NOTIFIED UNDER SEC. 10(11) OF 1961 ACT

(*Notification No S O 2430, dated 2nd July 1968*)

In pursuance of clause (*11*) of section 10 of the Income-tax Act, 1961 (XLIII of 1961), the Central Government hereby notifies the Public Provident Fund established under the Public Provident Fund Scheme, 1968, as a provident fund to which the said clause shall apply

CERTIFICATES SPECIFIED UNDER SEC. 10(15)(ii) OF 1961 ACT

In pursuance of s 10(*15*)(*ii*) of the Income-tax Act, 1961, the Central Government has specified the following certificates·

Certificates	*Notifications*
1 10-Year Defence Deposit Certificates 2 12-Year National Defence Certificates	S O 3574, 23-11-1962
3 The Government of India Defence Certificates	S O 588, 27- 2-1963
4 Premium Prize Bonds, 1963	S O 2953, 9-10-1963
5 7-Year National Savings Certificates (II Issue) and 7-Year National Savings Certificates (II Issue)—Bank Series 6 7-Year National Savings Certificates (III Issue) and 7-Year National Savings Certificates (III Issue)—Bank Series	S O 2880, 1- 9-1970

SCHEMES NOTIFIED UNDER SEC. 10(15)(ii-a) OF 1961 ACT

(*Notification No S O 2063, dated 4th June 1968*)

In pursuance of sub-clause (*ii-a*) of clause (*15*) of section 10 of the Income-tax Act, 1961 (XLIII of 1961), the Central Government hereby notifies any scheme of fixed deposits governed by the Government Savings Certificates (Fixed Deposits) Rules, 1968, and any scheme of fixed deposits governed by the Post Office (Fixed Deposits) Rules, 1968, as schemes to which the said sub-clause shall apply.

FINANCIAL INSTITUTIONS APPROVED FOR SEC. 4(3)(xvii-b)(ii) OF 1922 ACT* AND SEC. 10(15)(iv)(b) OF 1961 ACT

In exercise of the powers conferred by s 4(3)(*xvii-b*)(*ii*) of the Indian Income-tax Act, 1922, and the corresponding s 10(*15*)(*iv*)(*b*) of the Income-tax Act, 1961, the Central Government has accorded approval to the following foreign financial institutions for the purposes of exemption from tax on the interest payable by any industrial undertaking in India on moneys borrowed by it under a loan agreement entered into with those institutions —

	Institutions	*Notifications*
1	The International Finance Corporation, Washington	S R O 452, 31-1-1958
2	The Export Import Bank of Washington, Washington, DC	S R O 453, 31-1-1958
3	The Export Import Bank of Japan, Tokyo	S O 1896, 1- 9-1958
4	The Development Loan Fund, Columbia, U S A	S O 1905, 30- 7-1960
5	The Kreditanstalt fur Wiederaufbau (West German Bank for Reconstruction), West Germany	S O 2610, 24- 7-1962
6	The Banque Française du Commerce Exterieur, Paris	S O 3673, 5-10-1964

GAMES AND SPORTS SPECIFIED UNDER SEC. 4(3)(ii-a) OF 1922 ACT† AND SEC. 10(23) OF 1961 ACT

In exercise of the powers conferred by s 4(3)(*ii-a*) of the Indian Income-tax Act, 1922, and the corresponding s 10(*23*) of the Income-tax Act, 1961, the Central Government has specified the following games and sports

	Games	*Notifications*
1	Golf	S O 2688, 16-10-1961
2	Rifle shooting	S O 1101, 1- 3-1967
3	Table tennis	S O 1102, 8- 3-1967
4	Polo	S O 1562, 22- 4-1967
5	Badminton	S O 4091, 29-10-1968

*S 4(3)(*xvii-b*)(*ii*) of the 1922 Act corresponds to s 10(*15*)(*iv*)(*b*) of the 1961 Act Under s 297(2)(*k*) of the 1961 Act, the Notifications issued under s 4(3)(*xvii-b*)(*ii*) of the 1922 Act are deemed to have been issued under s 10(*15*)(*iv*)(*b*) of the 1961 Act and continue in force accordingly

†S 4(3)(*ii-a*) of the 1922 Act corresponds to s 10(*23*) of the 1961 Act Under s 297(2)(*k*) of the 1961 Act, the Notification issued under s 4(3)(*ii-a*) of the 1922 Act is deemed to have been issued under s 10(*23*) of the 1961 Act and continues in force accordingly

Games	Notifications
6 Swimming	241 F 197/7/70-IT(AI), 14-12-1972
7 Athletics	
8 Volleyball	
9 Badminton*	
10 Wrestling	
11 Basketball	
12 Kabaddi	
13 Weight-lifting	
14 Gymnastics	
15 Boxing	
16 Squash	
17 Chess	
18 Bridge	
19 Billiards	
20 Cycling	
21 Yachting	
22 Flying	
23 Judo	
24 Kho-kho	
25 Horse riding	
26 Motor racing including motor cycle racing	320 F 197/4/73-IT(AI), 28- 5-1974

SPORTS BODIES APPROVED FOR SEC. 10(23) OF 1961 ACT

(*Order No F 197/7/70-IT (AI), dated 20th January 1973*)

The Central Government is pleased to approve the following sports bodies for purposes of proviso (*iii*) to sub-section (*23*) of section 10 of the Income-tax Act, 1961 —

1 Indian Hockey Federation
2 All India Women's Hockey Association
3 Board of Control for Cricket in India
4 Swimming Federation of India
5 Amateur Athletic Federation of India
6 All India Football Federation
7 Volleyball Federation of India
8 Badminton Association of India
9 Wrestling Federation of India
10 All India Lawn Tennis Association
11 Table Tennis Federation of India
12 Basketball Federation of India
13 Amateur Kabaddi Federation of India (*substituted, Notif F. 197/7/70-IT(AI), 4-5-1973*)
14 Indian Weight-lifting Federation
15 Gymnastic Federation of India

*This item, already covered by a prior Notification, seems to have been inadvertently repeated

16 Indian Polo Association
17 Indian Golf Union
18 Indian Amateur Boxing Federation
19 Squash Rackets Association of India
20 All India Chess Federation
21 Ball Badminton Association of India
22 All India Bridge Federation
23 Indian Style Wrestling Association of India
24 Billiards Association and Control Council of India
25 Cycling Federation of India
26 National Rifle Association of India
27 Yachting Association of India
28 Aero Club of India Ltd
29 Judo Federation of India
30 Kho-Kho Federation of India
31 Cycle Polo Federation of India
32 Equestrian Federation of India

PROFESSION SPECIFIED UNDER SEC. 10(23A) OF 1961 ACT

(Notification No. S O 2458, dated 25th April 1972)

In exercise of the powers conferred by sub-section (*23A*) of section 10 of the Income-tax Act, 1961 (XLIII of 1961), the Central Government hereby specifies the profession of "Company Secretaries" for the purpose of the said section.

DISCONTINUANCE OF DEVELOPMENT REBATE: SEC. 33(5) OF 1961 ACT

(Notification No S O 2167, dated 28th May 1971)

In exercise of the powers conferred by sub-section (5) of section 33 of the Income-tax Act, 1961 (XLIII of 1961), the Central Government hereby directs that the deduction in respect of development rebate under section 33 of the said Act shall not be allowed in respect of a ship acquired or machinery or plant installed after the 31st day of May, 1974*.

HILLY AREAS: SEC. 33A(8) OF 1961 ACT

(Notification No S O 1526, dated 18th May 1966)

In pursuance of sub-section (8) of section 33A of the Income-tax Act, 1961 (XLIII of 1961), the Central Board of Direct Taxes hereby declares the areas mentioned below to be hilly areas for the purposes of the said section

1 Darjeeling District of West Bengal, excluding Siliguri Sub-Division
2 Kangra District, Punjab
3 Mandi District, Himachal Pradesh
4. Trivandrum District, Kerala

*This date is extended in certain cases by s 16 of the Finance Act, 1974, as amended by s 30 of the Finance Act, 1975

5 Quilon District, Kerala
6 Kottayam District of Kerala, excluding Meenachhil, Kanjirapally and Changanacherry Talukas
7 Ernakulam District, Kerala
8 Trichur District, Kerala
9 Palghat District, Kerala
10 Kozhikode District, Kerala
11 Cannanore District, Kerala
12 Kannya Kumari District, Madras
13 Tirunelveli District, Madras
14 Madurai District, Madras
15 Coimbatore District, Madras
16 Nilgiris District, Madras
17 Coorg District, Mysore
18 Hassan District, Mysore
19 Chickmagalur District, Mysore

INSTITUTIONS APPROVED FOR SEC. 10(2)(xiii) OF 1922 ACT* AND SEC. 35(1)(ii) AND (iii) OF 1961 ACT

(*Notification No 34, dated 23rd November 1946*)

The following associations and institutions have been approved by the prescribed authority for the purpose of s 10(2)(*xiii*) of the Indian Income-tax Act, 1922

Agricultural research associations

1 All India Bee Keepers' Association, Ramgarh, District Nainital, U P
2 Botanical Survey of India, Calcutta
3 Bombay Natural History Society, Bombay
4 Central Board of Irrigation, Simla
5 Current Science Association, Bangalore
6 Entomological Society of India, Cawnpore
7 Geological Survey of India, Dehra Dun
8 Imperial Chemical Industries, Calcutta
9 Indian Council of Agricultural Research, New Delhi (*substituted, Notif S R O 1791, 27-10-1952*)
10 Indian Academy of Science, Bangalore
11 *Deleted* (*Notif 56-I T, 4-6-1949*)
12 Indian Central Cotton Committee, Bombay
13 Indian Central Coconut Committee, Ernakulam
14 Indian Central Jute Committee, Calcutta
15 Indian Central Oilseeds Committee
16 Indian Central Sugarcane Committee, New Delhi
17 Indian Central Tobacco Committee, Bombay
18 Indian Coffee Board, Bangalore
19 Indian Chemical Society, Calcutta
19A Indian Jute Mills Association, Research Institute, Calcutta (*Notif 18-I T, 30-8-1947*)
20 Indian Lac Cess Committee, Ranchi
21 Indian Rubber Production Board, Kottayam, Travancore State
22 Indian Science News Association, Calcutta
23 Indian Society of Genetics and Plant Breeding, New Delhi
24 Indian Society of Soil Science, Calcutta
25 Indian Tea Association, Calcutta
26 Indian Tea Market Expansion Board, Calcutta
27 Meteorological Department, Poona
28 National Academy of Science, Allahabad
29 *Deleted* (*Notif 56-I T, 4-6-1949*)
30 Royal Asiatic Society, Calcutta and Bombay
31 United Planters' Association of South India, Coonoor
32 Vivekanand Laboratories, Almora

*S 10(2)(*xiii*) of the 1922 Act corresponds to cls (*ii*) and (*iii*) of s 35(1) of the 1961 Act Under s 297(2)(*k*) of the 1961 Act, these Notifications are deemed to have been issued under cls (*ii*) and (*iii*) of s 35(1) of that Act and continue in force accordingly

Agricultural research associations—*Contd*

33 Zoological Survey of India, Calcutta

34 The International Society of Sugarcane Technologists (*Notif S R O 3496, 7-11-1955*)

35 The Sugarcane Research Station, Jullunder (*Notif S R O 478, 11-2-1957*)

Scientific and industrial research associations

1 Ahmedabad Textile Industry's Research Association, Ahmedabad (*substituted, Notif 21-I T, 10-4-1948*)

1A B B & C I Railway Workshop, Ajmer (*Notif 21-I T, 10-4-1948*)

2 Bengal Potteries Ltd, Calcutta

3 Bhowmik (Mr B B), Radan House, 89, Kalighat Road, Calcutta

4 Biochemical Standardisation Laboratory, Calcutta

5 Botanical Survey of India, Calcutta

6 Council of Scientific and Industrial Research, New Delhi

6A Indian Association for the Cultivation of Science, Calcutta (*Notif 7-I T, 22-1-1949*)

7 Indian Central Cotton Committee, Matunga, Bombay

8 Indian Crucible Co, Ltd, 16, Sibogopal Banerjee Lane, Salikia, Howrah

9 Indian Meteorological Dept, Delhi

10 Mysore Iron and Steel Works, Bhadravati

11 State Broadcasting Dept, Madras

12 Royal Botanical Gardens, Calcutta

12A Silk and Art Silk Mills Research Association, Bombay (*Notif 23, 18-2-1950*)

12B South India Textile Research Association, Coimbatore (*Notif S R O 1799, 9-11-1951*)

12C Shri Ram Scientific and Industrial Research Foundation, Delhi (*Notif 79, 10-12-1953, substituted, Notif S O 475, 1-2-1965*)

12D Industrial Foundation, Bombay (*Notif 14, 11-3-1954*)

13 Tata Iron and Steel Industry, Jamshedpur

14 Bombay Textile Research Association, Bombay (*Notif S R O 3466, 17-11-1954*)

15 The Textile and Allied Industries Research Organisation, Baroda (*Notif S R O 1026, 1-5-1956*)

16 National Council of Applied Economic Research (*Notif S R O 1859, 17-8-1956, substituted, Notif S R O 2742, 19-11-1956*)

Associations connected with research work in medicine

1 Inquiries conducted under the auspices of the I R F A, New Delhi

1A Gujarat Research Society, Bombay (*Notif 2-I T, 8-1-1949*)

2 Indian Council of Medical Research, New Delhi (*substituted, Notif 65, 3-6-1950*)

2A King Edward VII Memorial Hospital and Seth Gordhandas Sunderdas Medical College Research Society, Bombay (*Notif 16, 3-3-1953*)

3 Medical Council of India, New Delhi

4 Nutrition Research Laboratories, Coonoor

5 Parlakimedi Trust Fund, New Delhi

6 Tuberculosis Association of India, New Delhi

7 The Universal Health Institute, Bombay (*Notif S R O 2684, 13-8-1954*)

8 The All India Institute of Medical Sciences, New Delhi (*Notif S O 267, 31-1-1961*)

Universities

1 Agra University, Agra

2 Allahabad University, Allahabad

3 Andhra University, Guntur

4 Annamalai University, Annamalainagar

5 Bombay University (Chemical Technological Department), Bombay

6 Calcutta University (University College of Science), Calcutta

7 *Deleted* (*Notif 56-I T, 4-6-1949*)

8 Delhi University, Delhi

9 Hindu University, Benares

10 Lucknow University, Lucknow

11 Madras University, Madras

12 Muslim University, Aligarh

13 Mysore University, Bangalore

14 Nagpur University, Nagpur

15 Patna University, Patna

16 East Punjab University, Solon (*substituted, Notif 56-I T, 4-6-1949*)

17 Travancore University, Trivandrum

18 Usmania University, Hyderabad (Deccan)

19 Utkal University, Cuttack

20 Women's University, Bombay

21 University of Roorkee, Roorkee (*Notif S O 266, 31-1-1961*)

22 The Birla Institute of Technology and Science, Pilani (*Notif S O 1574, 10-5-1965*)

Colleges

1 Agricultural College, Cawnpore
2 *Deleted* (*Notif 56-I T, 4-6-1949*)
3 Agricultural College, Nagpur
4 Agricultural College, Poona
5 Agricultural College, Sabour, Bihar
6 Agricultural College, Saidapet
7 *Deleted* (*Notif 56-I T, 4-6-1949*)
8 Amar Singh K E M U Jat College, Lakhaoti, U P
9 Balwant Agricultural College, Agra
10 *Deleted* } (*Notif 56-I T, 4-6-1949*)
11 *Deleted* }
12 Indian School of Mines, Dhanbad
13 *Deleted* (*Notif 56-I T, 4-6-1949*)
14 Khalsa College, Amritsar
15 King George's Medical College, Lucknow
16 Presidency College, Calcutta
17 Presidency College, Madras
18 Recognised Medical Colleges
19 Science College, Patna
20 School of Tropical Medicine, Calcutta (*corrected, Notif 81, 16-12-1953*)
21 Veterinary College, Bengal
22 *Deleted* (*Notif 56-I T, 4-6-1949*)
23 Veterinary College, Madras
24 Veterinary College, Patna
25. Veterinary College, Poona
26 *Deleted* } (*Notif S O 1574,*
27 *Deleted* } *10-5-1965*)
28 Kasturba Medical College, Manipal (*Notif S O 651, 18-3-1961*)

Institutions

1 Agricultural Research Institute and College, Coimbatore
2 Allahabad Agricultural Institute, Allahabad
3 *Deleted* (*Notif 56-I T, 4-6-1949*)
4 Bengal Tanning Institute, Calcutta
5 Bose Research Institute, Calcutta
6 Central Irrigation Research Institute, Poona
7 Central Research Institute, Trivandrum
8 Forest Research Institute and College, Dehra Dun
9 Government Silk Institute, Nathnagar, Bhagalpore
10 Indian Agricultural Research Institute, New Delhi (*substituted, Notif 5-I T, 22-2-1947*)
11 Indian Dairy Research Institute, Bangalore (*substituted, ibid*)
12 Indian Veterinary Research Institute, Izatnagar and Mukteswar (Uttar Pradesh) (*substituted, ibid*)
13 Imperial Institute of Sugar Technology, Cawnpore
14 *Deleted* (*Notif 56-I T, 4-6-1949*)
15 Indian Institute of Science, Bangalore
16 Indian Statistical Institute, Calcutta
17 Institute of Agriculture, Anand
18 Institute of Plant and Industry, Indore
19 *Deleted* (*Notif 56-I T, 4-6-1949*)
20 Laxmi-Narain Institute of Technology, Nagpur
21 National Institute of Science in India, Calcutta
22 Nutritional Research Institute, Coonoor
23 River Research Institute, Bengal, Calcutta
24 Royal Institute of Science, Bombay
25 Silk Research Institute, Berhampore
26 Tata Institute of Fundamental Research, Bombay
27 Technological Institute, Baroda
28 Victoria Jubilee Technical Institute, Bombay
29 Vishvabharti Institute, Calcutta
30 Inter-Departmental Committee for the collection of voluntary contributions for the plywood industry (*Notif. S R O. 3580, 28-11-1955*)
31 Indian Science Congress Association, Calcutta (*Notif S R O 226, 24-1-1956*)
32 Birla Institute of Technology, Mesra, Ranchi (*Notif S O 148, 12-1-1961*)
33 Indian Institute of Technology, Bombay (*ibid*)
34 Indian Institute of Technology, Kharagpur (*Notif S O 266, 31-1-1961*)
35 Indian Institute of Technology, Madras (*ibid*)
36 Indian Institute of Technology, Kanpur (*ibid*)
37 The Calcutta Medical Research Institute, Calcutta (*Notif S O 1944, 11-8-1961*)

The following associations and institutions have been approved by the prescribed authority for the purposes of s 35(1)(*ii*) of the Income-tax Act, 1961

	Institutions	*Notifications*
1	Haffkine Institute for Training, Research and Testing Society, Bombay	S O 3092, 29- 9-1962 (amended w e f 14-3-1974, S O 3137, 8-10-1974)
2	National Institute for Industrial Design, Ahmedabad	S O 3209, 20-10-1962
3	Indian Drugs Research Association, Poona	S O 3210, 20-10-1962
4	The Economic and Scientific Research Foundation, New Delhi	S O 3505, 15-11-1962
5	Cement Research Institute of India, Bombay	S O 890, 21- 3-1963
6	Indian Rubber Manufacturers Research Association, Bombay	S O 1838, 18- 6-1963
7	Study Group of Tetanus, K E M Hospital, Bombay	S O 3128, 28-10-1963
8	Wool Research Association, Bombay	S O 347, 20- 1-1964
9	Economic and Scientific Research Association, Calcutta	S O 670, 20- 2-1964
10	The Gujarat Cancer Society, Ahmedabad	S O 1228, 26- 3-1964
11	Indian Cancer Society, Bombay	S O 2362, 30- 6-1964
12	Tea Research Association, Calcutta	S O 2573, 18- 7-1964
13	The Birla Institute of Scientific Research, Calcutta	S O 2574, 18- 7-1964
14	Indian Plywood Industries Research Institute, Bangalore	S O 2772, 1- 8-1964 (amended, S O 644, 14-12-1971)
15	The Special Coffee Research Association, Madras	S O 4024, 16-11-1964
16	Indian Academy of Medical Sciences, New Delhi	S O 476, 3- 2-1965
17	Research Institute of Ancient Scientific Studies, New Delhi	S O 605, 15- 2-1965
18	Amul Research and Development Association, Anand	S O 1336, 15- 4-1965
19	Central Board of Irrigation and Power, New Delhi	S O 1973, 15- 6-1965
20	Sardar Patel Institute of Social and Economic Research, Ahmedabad	S O 2161, 30- 6-1965
21	Cancer Institute (W I A), Madras	S O 2599, 10- 8-1965
22	Industrial and Scientific Research Association, Madras	}
23	Statistical Publishing Society, Calcutta	} S O 2875, 6- 9-1965
24	Birla Research Institute for Applied Sciences, Birlagram, Nagda (M P)	}
25	Association of Surgeons of India, Madras	S O 1417, 26- 4-1966
26	Kothari Scientific and Research Institute, Calcutta	S O 1704, 30- 5-1966
27	Indian Jute Industries Research Association, Calcutta	S O 2238, 25- 6-1966
28	The Society for the Care, Treatment and Training of Children in Need of Special Care, Sewri Hills, Bombay	S O 3646, 15-11-1966
29	Automotive Research Association of India, Bombay	S O 1284, 31- 3-1967
30	Birla Planetarium and Astronomical Research Centre, Calcutta	S O 2247, 29- 6-1967
31	B Y L Nair Hospital and T N Medical College Research Society, Bombay	S O 4227, 6-11-1967
32	B J Medical College, Ahmedabad	S O 4228, 6-11-1967
33	The Research Society, Grant Medical College and J J Group of Hospitals, Bombay	S O 1374, 4- 4-1968
34	N M Wadia Institute of Cardiology, Poona	S O 2169, 10- 6-1968
35	Vedhashala Astronomical Observatory, Ahmedabad	S O 2984, 20- 8-1968
36	The Stock Exchange Foundation, Bombay	S O 4221, 22-11-1968
37	Research Society of the B J Medical College and Sassoon General Hospital, Poona	S O 4558, 11-12-1968

Institutions	*Notifications*
38 Gujarat Institute of Chemical Technology, Ahmedabad	S O 4559, 11-12-1968
39 Lokmanya Tilak Municipal Medical College and Lokmanya Tilak Municipal General Hospital, Staff and Research Society, Bombay	S O 964, 24- 2-1969
40 Society for the Rehabilitation of Physically Handicapped and Mentally Backward (Regd), New Delhi	S O 1174, 7- 3-1969
41 Medical Research Centre of Bombay Hospital Trust, Bombay	S O 1242, 21- 3-1969
42 West Suburban Voluntary Blood Bank, Bombay	S O. 1583, 24- 4-1969 (for two years)
43 Birla Archaeological and Cultural Research Institute, Hyderabad (A P)	S O 3963, 15- 9-1969
44 Bharatiya Krishi Udyog, Pratishthan (Bharatiya Agro-Industries Foundation), Uruli Kanchan, District Poona	S O. 3991, 23- 9-1969 (for two years) S O 1514, 23- 3-1971 (continued)
45 Indian Institute of Science, Bangalore	S O 4648, 5-11-1969
46 Suri Research Foundation, Bombay	S O 10, 24-12-1969
47 International College of Surgeons, Indian Section, Bombay	S O 737, 11- 2-1970
48 M Visvesvaraya Industrial Research and Development Centre	S O 1416, 6- 4-1970
49 Nimbkar Agricultural Research Institute, Phaltan	S O 3417, 16- 6-1970 (for three years) S O 1914, 30- 5-1973 (extended for three years w e f 1-4-1973)
50 Post-graduate Institute of Medical Education and Research, Chandigarh	S O 3193, 24- 6-1970
51 Indian Institute of Management, Ahmedabad	S O 2910, 19- 8-1970 (w e f 22-10-1962)
52 National Centre for the Performing Arts, Bombay	S O. 3512, 13-10-1970
53 The Association of Otolaryngologists of India, Bombay	S O. 3951, 25-11-1970
54 Institute for Financial Management and Research, Madras	S O 313, 26-12-1970
55 The Oil Technologists Association of India, Kanpur	S O 631, 22- 1-1971
56 The Central Machine Tool Institute, Bangalore	S O 1241, 20- 2-1971
57 The Family Planning Foundation, New Delhi	S O 1473, 20- 3-1971
58 Bhavan's Sardar Patel College of Engineering, Bombay 59 Bhavan's M M College of Arts and N M. Institute of Science, Andheri, Bombay 60 Bhavan's Hazarimal Somani College, Bombay 61 Bhavan's R A College of Science, Ahmedabad	S O 2386, 1- 6-1971 (approval withdrawn w e f 1-5-1974 S O 1441, 1-5-1974)
62 Acworth Leprosy Hospital Society for Research, Rehabilitation and Education in Leprosy, Wadala, Bombay	S O 2387, 1- 6-1971
63 Madan Mohan Lal Ayurvedic Research Society, Delhi	S O 3318, 9- 8-1971
64 Nair Golden Jubilee Research Foundation, Bombay	S O 3319, 9- 8-1971
65 Commonwealth Institute of Biological Control, Indian Centre, Bangalore-6	S O 3320, 9- 8-1971
66 Dr Shantilal J Mehta Medical Research Foundation, Bombay	S O 3321, 11- 8-1971
67 Raghvendra Industrial Research Foundation, Delhi	S O 180, 28-10-1971
68 Lokmanya Tilak Hospital Silver Jubilee Research Foundation, Bombay	S O 181, 5-11-1971

	Institutions	Notifications
69.	The Voluntary Health Services, Madras	S O 657, 1- 1-1972
70	The Santhal Paharia Sewa Mandal, Bihar	S O 658, 1- 1-1972
71	Dalmia Institute of Scientific and Industrial Research, Rajgangpur, Orissa	S O 659, 1- 1-1972
72	Inventions Promotion Board, New Delhi	S O 661, 1- 1-1972
73	National Hospital, Mahim, Bombay	S O 1082, 1- 2-1972
74	Medical Education Foundation, Madras	S O 1083, 15- 2-1972
75	Indian Academy of Wood Science, Bangalore	S O 1318, 7- 3-1972
76	Kasturba Health Society, Sevagram	S O 2171, 6- 4-1972
77	Rose Foundation, Bombay	S O 2459, 10- 5-1972
78	Nanavati Hospital Medical Research Centre, Bombay	S O 3379, 16- 8-1972
79	Raman Research Institute, Bangalore	S O 3380, 17- 8-1972
80	Food Marketing Centre of the Xavier Labour Relations Institute, Jamshedpur	S O 3728, 28- 8-1972
81	International Crops Research Institute for the Semi-Arid Tropics, Hyderabad	S O 3729, 11- 9-1972
82	I C M F Cotton Development and Research Association, Bombay	S O 3730, 12- 9-1972
83	Society for Prevention of Heart Disease and Rehabilitation, Bombay	S O 3826, 26- 9-1972
84	Tamil Nadu Eye Relief Association, Madurai	S O 150, 11-12-1972
85	Vijnana Parishad, Allahabad	S O 151, 11-12-1972
86	Society for Pharmaceutical and Industrial Research, Bombay	S O 261, 20-12-1972
87	The National Society for the Prevention of Blindness—India	S O 262, 21-12-1972
88	Pulp and Paper Research Institute, Rayagada	S O 332, 30-12-1972
89	Sri Aurobindo Society, Pondicherry	S O 333, 4- 1-1973
90	Bombay University, Bombay	S O 608, 29- 1-1973 (w e f 1-4-1972)
91	Saurashtra University, Rajkot	S O 609, 30- 1-1973
92	The Indian Institute of Management, Calcutta	S O 785, 7- 2-1973
93	Dharamsingh Industrial Research Foundation Pr Ltd , Bombay	S O 938, 15- 2-1973
94	Dudhsagar Research Association, Mehsana	S O 1054, 9- 3-1973 (for three years w e f 1-4-1972)
95	King Edward Memorial Research Centre, Poona	S O 1478, 21- 4-1973
96	Dharmsinh Agricultural Research and Development Foundation Pr Ltd , Bombay	S O 1684, 3- 5-1973 (for two years w e f 1-4-1973)
97	Nowrosjee Wadia Maternity Hospital, Bombay	S O 1804, 16- 5-1973
98	Christian Medical College and Hospital, Vellore	S O 2009, 11- 6-1973
99	National Dairy Development Board, Anand	S O 2113, 27- 6-1973
100	Gujarat University, Ahmedabad	S O 2114, 27- 6-1973
101	The Karnataka Institute of Applied Agricultural Research, Sameerwadi, District Bijapur	S O 2336, 30- 6-1973 (for two years w e f 1- 4-1973) S O 4672, 9- 9-1975 (extended for one year w e f 1- 4-1975)
102	The Skin Institute, New Delhi	S O 2521, 13- 7-1973
103	Department of Agricultural Engineering, College of Technology, G B Pant University of Agriculture and Technology, Pantnagar, U P	S O 2778, 22- 8-1973 (for two years w e f 1- 4-1973)
104	Indian College of Allergy and Applied Immunology, New Delhi	S O 3038, 7- 9-1973
105	Jawaharlal Nehru University, New Delhi	S O 822, 26- 9-1973 (w e f 1- 4-1973)
106	Protein Foods and Nutrition Development Association of India, Bombay	S O 9, 8-11-1973 (w e f 1- 4-1973)

Institutions	Notifications
107 Indian Academy of Pediatrics, Bombay	S O 10, 13-11-1973 (w e f 1- 4-1973)
108 V H N S Nadar College, Virudhunagar	S O 11, 1-12-1973 (w e f 1- 4-1973)
109 University of Poona, Poona	S O 12, 4-12-1973 (w e f 1- 4-1973)
110 Poona Medical Foundation, Poona	S O 283, 4-12-1973 (w e f 1- 4-1973)
111 The Sugar Technologists' Association of India, Kanpur	S O 284, 7-12-1973 (w e f 1- 4-1973)
112 Victoria Jubilee Technical Institute, Bombay	S O 285, 10-12-1973 (w e f 1- 4-1973)
113 Maharashtra Technical Education Society, Poona	S O 286, 10-12-1973 (w e f 1- 4-1973)
114 Indian Institute of Technology, Madras	S O 287, 10-12-1973 (w e f 1- 4-1973)
115 Aspee Agricultural Research and Development Foundation Pr Ltd , Malad, Bombay	S O 288, 14-12-1973 (for two years w e f 1- 4-1973)
Aspee Agricultural Research and Development Foundation, Bombay (w e f 28-7-1975)	S O 4470, 22- 8-1975 (extended for three years w e f 1- 4-1975)
116 Maharashtra Hybrid Seeds Co Ltd , Jalna	S O 363, 17-12-1973 (for two years w e f 1-4-1973)
117 Maharashtra Association for the Cultivation of Science, Law College Road, Poona-4	S O 366, 21-12-1973 (for two years w e f 1-4-1973) S O 4787, 27- 8-1975 (extended for three years w e f 1- 4-1975)
118 Jayant Industrial and Scientific Research Pr Ltd , Bombay	S O 432, 7- 1-1974 (w e f 1- 4-1973)
119 Indian Institute of Geomagnetism, Bombay	S O 491, 9- 1-1974 (w e f. 1- 4-1973)
120 Institute of Tropical Meteorology, Poona	S O 740, 15- 2-1974 (w e f 1- 4-1973)
121 Sir Hurkisondas Nurrotumdas Hospital Medical Research Society, Bombay	S O 743, 15- 2-1974 (w e f 1- 4-1973)
122 Shri A M M Murugappa Chettiar Research Centre, Madras	S O 744, 19- 2-1974 (w e f 1- 4-1973)
123 Sir Ganga Ram Trust Society, New Delhi	S O 745, 19- 2-1974 (w e f 1- 4-1973) (approval withdrawn w e f 1-4-1973 S O. 4052, 22- 7-1975)
124 Cadila Laboratories, Ahmedabad	S O 823, 27- 2-1974 (w e f 1- 4-1973)
125 Institute of History of Medicine and Medical Research, New Delhi	S O. 824, 28- 2-1974 (w e f 1- 4-1973)
126 Administrative Staff College of India, Hyderabad	S O 867, 6- 3-1974 (w e f 1- 4-1973)
127 National Academy of Sciences, India, Allahabad	S O 968, 13- 3-1974 (w e f 1- 4-1973)
128 Jaslok Hospital and Research Centre, Bombay	S O 1091, 16- 3-1974 (w e f 1- 4-1973)
129 Premhari Research and Development Foundation, Bombay	S O 1092, 21- 3-1974 (for two years w e f 1- 4-1973) S O 1976, 14- 5-1975 (extended for three years w e f 1- 4-1975)
130 R N T Medical College, Udaipur	S O 1094, 27- 3-1974 (approval withdrawn w e f 27-3-1974 S O 4385, 1- 8-1975)
131 Tuberculosis Research Centre, Amargadh	S O 1095, 27- 3-1974 (w e f 1- 4-1973)

	Institutions	*Notifications*
132	Sri Aurobindo Ashram, Pondicherry	S O 1239, 27- 4-1974 (w e f 1-4-1973, approved for research purposes only)
133	Nutrition Society of India, Hyderabad	S O 1322, 30- 4-1974 (w e f 1- 4-1973)
134	Bharatiya Vidya Bhavan	S O 1441, 1- 5-1974
135	Nehru Centre, Bombay	S O 1323, 7- 5-1974 (w e f 1- 4-1974)
136	Vakil Institute of Cardiology and Research Centre, Bombay	S O 1603, 10- 5-1974 (w e f 1- 4-1973)
137	The Society for the Study of Man, His Environment and Disease (MED), India	S O 1716, 13- 6-1974 (w e f 1- 4-1973)
138	Management Development Institute, New Delhi	S O 1717, 15- 6-1974 (w e f 1- 4-1973)
139	Decospin Research Foundation, Ichalkaranji, District Kolhapur	S O 1718, 18- 6-1974 (w e f 1- 4-1974)
140	Tata Energy Research Institute, New Delhi	S O 1719, 19- 6-1974 (w e f 1- 4-1974)
141	Sri Avinasilingam Home Science College for Women	S O 1831, 21- 6-1974 (w e f 1- 4-1973)
142	Indian Society for Training and Development, New Delhi	S O 1833, 27- 6-1974 (w e f 1- 4-1974)
143	K E M Hospital and Seth G S Medical College Research Society, Bombay	S O 1980, 10- 7-1974
144	Electrical Research and Development Association, Bombay	S O 2483, 26- 8-1974 (w e f 1- 4-1974)
145	Physical Research Laboratory, Ahmedabad	S O 2847, 19- 9-1974 (w e f 1- 4-1974)
146	Northern India Textile Research Association Ghaziabad	S O 2912, 27- 9-1974 (w e f 1- 4-1974)
147	Society of Nuclear Medicine, India	S O 2913, 27- 9-1974 (w e f 1- 4-1974)
148	Gujarat Research Society, Bombay	S O 3387, 26-10-1974 (w e f 1- 4-1974)
149	University of Sagar, Sagar	S O 9, 27-11-1974 (w e f 1- 4-1974)
150	The Institute of Chartered Accountants of India, New Delhi	S O 507, 6- 1-1975 (from 1-4-1974 to 31- 3-1977)
151	The Gandhigram Institute of Rural Health and Family Planning, Madurai District, Tamil Nadu	S O 804, 13- 1-1975 (w e f 1-4-1974, approved for research purposes only)
152	The Mahatma Gandhi Institute of Medical Sciences, Wardha	S O 805, 13- 1-1975 (w e f 1-4-1974, approved for research purposes only)
153	Vividhlaxi Audyogik Samshodhan Vikas Kendra, Bombay	S O 870, 7- 2-1975 (from 28-10-1974 to 31-3-1976)
154	Madurai University, Madurai	S O 867, 11- 2-1975 (w e f 1- 4-1974)
155	The National Productivity Council, New Delhi	S O 932, 28- 2-1975 (w e f 1- 4-1974)
156	The Indian Academy of Science, Bangalore	S O 1370, 4- 3-1975 (w e f 1- 4-1974)
157	The Karnataka Agriculture Foundation, Hubli, District Dharwar	S O 1141, 7- 3-1975 (from 1-4-1974 to 31- 3-1976) S O 4937, 25- 9-1975 (extended for one year w e f 1- 4-1976)
158	Bakul Finechem Research Centre, Bombay	S O 1420, 22- 3-1975 (w e f 17- 3-1975)
159	Jawaharlal Nehru Art and Crafts Centre, New Delhi	S O 1846, 11- 4-1975 (from 1-4-1975 to 31-3-1978)

	Institutions	*Notifications*
160	Gujarat Agricultural University, Government Bungalow No 6, Near Dafnala, Shahi Bagh, Ahmedabad-4, Gujarat	S O 1974, 18- 4-1975 (w e f 1-4-1974)
161	Andhra Pradesh Agricultural University, Dilkhsha, Hyderabad (A P)	
162	Assam Agricultural University, Jorhat-4, Assam	
163	Rajendra Agricultural University, Patna-14, Bihar	
164	Haryana Agricultural University, Hissar, Haryana	
165	Himachal Pradesh University (Agricultural Complex), Simla (H P)	
166	Sadiq Memorial Agricultural University, Srinagar (J & K)	
167	University of Agricultural Sciences, Hebbal, Bangalore-24, Karnataka	
168	Kerala Agricultural University, Mannuthy District, Trichur, Kerala	
169	*Jawaharlal Nehru Krishi Vishwa Vidyalaya, Jabalpur* (M P)	
170	Konkan Krishi Vidyapeeth, Dapoli District, Ratnagiri, Maharashtra	S O 1974, 18- 4-1975 (w e f 1-4-1975)
171	Mahatma Phule Krishi Vidyapeeth, Rahuri District, Ahmednagar, Maharashtra	
172	Marathwada Krishi Vidyapeeth, Parbhani, Maharashtra	
173	Punjabrao Krishi Vidyapeeth, Krishinagar, Akola, Maharashtra	
174	Orissa University of Agriculture and Technology, Bhubaneswar, Orissa	
175	Punjab Agricultural University, Ludhiana, Punjab	
176	University of Udaipur, Udaipur, Rajasthan	
177	Tamil Nadu Agricultural University, Coimbatore-3, Tamil Nadu	
178	G B Pant University of Agriculture and Technology, Pantnagar District, Nainital (U P)	
179	Bidhan Chandra Krishi Vidyalaya, Harringhatta, Kalyani P O , District Nadia, West Bengal	
180	Vivekanand College, Mylapore, Madras	S O 1975, 30- 4-1975 (from 1-4-1974 to 31-3-1978)
181	Usha Scientific Research Institute, Calcutta	S O 2528, 4- 6-1975 (from 1-4-1974 to 31-3-1977)
182	The South Indian Sugarcane and Sugar Technologists' Association, Madras	S O 2529, 17- 6-1975 (from 1-4-1974 to 31-3-1977)
183	Gandhi Memorial Leprosy Foundation, Wardha	S O 2894, 26- 7-1975 (w e f 1-4-1975, approved for research purposes only)
184	The Maharaja Sayajirao University of Baroda	S O 4162, 2- 8-1975 (w e f 1-4-1975)
185	Systems Research Institute, Poona	S O 4386, 22- 8-1975 (from 1-4-1975 to 31-3-1978)
186	The Institution of Surveyors, New Delhi	S O 4936, 25- 9-1975 (from 1-4-1975 to 31-3-1978)
187	Gujarat Vidyapith, Ahmedabad	S O 4938, 29- 9-1975 (from 1-4-1975 to 31-3-1977)

The following associations and institutions have been approved by the prescribed authority for the purposes of s 35(1)(*iii*) of the Income-tax Act, 1961

	Institutions	*Notifications*
1	Indian Institute of Social Welfare and Business Management, Calcutta	S O 3091, 29- 9-1962
2	Indian Institute of Management, Ahmedabad	S O 3573, 22-11-1962
3	Shri Ram Centre for Industrial Relations and Human Resources, Delhi	S O 1227, 25- 3-1964 (amended, S O 2385, 1-6-1971)
4	Gokhale Institute of Politics and Economics, Poona	S O 1474, 20- 3-1971
5	Indian Council of Social Science Research, New Delhi	S O 1728, 31- 3-1971
6	Centre for Regional Development Studies, Surat	S O 3881, 27- 9-1971 (up to 31-3-1974, and subject to certain conditions) S O 1246, 17- 4-1974 (continued)
7	All India Management Association, New Delhi	S O 660, 1- 1-1972
8	Tata Institute of Social Sciences, Bombay	S O 2170, 13- 3-1972 (subject to certain conditions)
9	National Institute of Bank Management, Bombay	S O 1044, 30- 3-1972 (subject to certain conditions)
10	The Indian Institute of Management, Calcutta	S O 2172, 6- 4-1972
11	Qaumi Ekta Trust, New Delhi	S O 263, 23-12-1972
12	Institute for Techno-Economic Studies, Madras	S O 334, 8- 1-1973
13	Maharashtra Economic Development Council	S O 700, 2- 2-1973 (for three years w e f 1-4-1972)
14	Sri Satya Sai Institute of Research, Bombay	S O 1053, 22- 2-1973 (for three years w e f 1-4-1973, and subject to certain conditions)
15	The Institute of Chartered Accountants of India, New Delhi	S O 2404, 7- 7-1973 (for three years w e f 1-4-1973, and subject to certain conditions)
16	Dr Vikram A Sarabhai Ama Memorial Trust, Ahmedabad	S O 2777, 14- 8-1973
17	Gujarat University, Ahmedabad	S O 2863, 23- 8-1973
18	Management Development Institute, New Delhi	S O 3037, 7- 9-1973 (for five years w e f 1-4-1973, and subject to certain conditions)
19	University of Poona, Poona	S O 282, 30-11-1973
20	Centre for Social Research, Madras	S O 365, 20-12-1973 (for three years w e f 1-4-1973, and subject to certain conditions)
21	Kishore Bharati, Bankheri District, Hoshangabad, Madhya Pradesh	S O 741, 15- 2-1974 (for three years w e f 1-4-1973)
22	Gujarat Research Society, Bombay	S O 742, 15- 2-1974 (w e f 1-4-1973)
23	The Institute for Defence Studies and Analyses, New Delhi	S O 1217, 11- 4-1974 (w e f 1-4-1973)
24	University of Bombay	S O 1218, 17- 4-1974 (w e f 1-4-1973)
25	Baroda Citizens' Council, Baroda	S O 1533, 8- 5-1974 (w e f 1-4-1973, and subject to certain conditions)
26	T S Narayanaswami Institute of Social and Business Research, Madras	S O 1658, 22- 5-1974 (w e f 1-4-1973)
27	Indian Institute of Islamic Studies, New Delhi	S O 1659, 22- 5-1974 (w e f 1-4-1973)
28	Balraj-Damyanti Sahni Memorial Trust, Almora	S O 1605, 24- 5-1974 (for three years w e f 1-4-1973, and subject to certain conditions)

Institutions	*Notifications*
29 Indian National Theatre, Bombay	S O 1832, 21- 6-1974 (for three years w e f 1-4-1974, and subject to certain conditions)
30 Xavier Labour Relations Institute, Jamshedpur	S O 3085, 3-10-1974 (for three years w e f 1-4-1974, and subject to certain conditions)
31 Gandhi Shikshan Bhavan, Bombay	S O 5, 26-10-1974 (for three years w e f 1-4-1974, and subject to certain conditions)
32 Centre for Policy Research, New Delhi	S O 933, 11- 2-1975 (w e f 1-4-1974, and subject to certain conditions)
33 The Jawaharlal Nehru Art and Crafts Centre, New Delhi	S O 1018, 20- 2-1975 (from 1-4-1975 to 31-3-1978, and subject to certain conditions)
34 Indian School of Political Economy, Poona	S O 1473, 26- 3-1975
35 Centre for Studies in Social Sciences, Calcutta	S O 1977, 14- 5-1975 (w e f 1-4-1974, and subject to certain conditions)
36 Shri Girivanavasi Pragati Mandal, Bombay	S O 2893, 11- 7-1975 (from 1-4-1975 to 31-3-1978, and subject to certain conditions)
37 The Indian Econometric Society, Hyderabad	S O 2648, 19- 7-1975 (w e f 1-4-1975)
38 The Indian Society of Agricultural Economics, Bombay	S O 4053, 1- 8-1975 (w e f 1-4-1975, and subject to certain conditions)
39 The Maharaja Sayajirao University of Baroda	S O 4673, 9- 9-1975 (w e f 1-4-1975, and subject to certain conditions)
40 The Research and Documentation Centre in Social Welfare and Development, Bombay	S O 4788, 9- 9-1975 (from 1-4-1975 to 31-8-1978, and subject to certain conditions)
41 Indian Association for Research in National Income and Wealth, New Delhi	S O 4789, 10- 9-1975 (w e f 1-4-1975)
42 The Karve Institute of Social Service, Poona	S O 4790, 15- 9-1975 (from 1-7-1975 to 31-3-1978, and subject to certain conditions)
43 Indian Society of Industrial and Fiscal Economics, Madras	S O 4934, 25- 9-1975 (w e f 1-4-1975, and subject to certain conditions)
44 The Institute of Management Development, U P, Lucknow	S O 4935, 25- 9-1975 (from 1-4-1975 to 31-3-1978, and subject to certain conditions)

N.B.—In the absence of any authoritative and up-to-date Government publication, it is not possible to know whether the above Notifications represent a complete list of those Notifications which are currently in operation.

INSTITUTIONS APPROVED FOR SEC. 35C(1)(a) OF 1961 ACT

The following institutions have been approved by the prescribed authority for the purposes of s 35C(1)(*a*) of the Income-tax Act, 1961

Institutions	*Notifications*
1 The Vanaspati Manufacturers Association of India, Bombay	S O 2384, 1- 6-1971
2 National Dairy Development Board, Anand (approved as an association for incurring expenditure on agriculture or animal husbandry development)	S O 1317, 23-12-1971
3 Indian Cotton Mills Federation Cotton Development and Research Association, Bombay	S O 1093, 23- 3-1974

CONCERNS APPROVED FOR SEC. 35D(2) OF 1961 ACT

The following concerns have been approved by the Central Board of Direct Taxes for the purposes of s 35D(2) of the Income-tax Act, 1961

Concerns	*Notifications*
1 M N Dastur and Co (P) Ltd , Calcutta	S O 364, 17-12-1973
2 Fact Engineering and Design Organisation, Udyogamandal	S O 1098, 2- 4-1974
3 Cellulosics Consultants (India) Pr Ltd , New Delhi	S O 1604, 22- 5-1974
4 Engine Valves Ltd , Madras (approved for imparting technical know-how in respect of manufacture of engine valves)	S O 1606, 28- 5-1974 (w e f 1-4-1973)

CONTRIBUTIONS TO PROVIDENT FUND: SEC. 36(1)(iv) OF 1961 ACT

(*Notification No S O 3433, dated 21st October 1965*)

In exercise of the powers conferred by clause (*iv*) of sub-section (1) of section 36 of the Income-tax Act, 1961 (XLIII of 1961), the Central Board of Direct Taxes hereby specifies the following conditions for the deduction of contributions, not being annual contributions of fixed amounts or annual contributions fixed on some definite basis by reference to the income chargeable under the head "Salaries" or to the contributions or to the number of members of the fund, namely —

1 The total amount of contribution that shall be taken into account for the purposes of this notification shall not exceed twenty-five per cent of the employee's salary for each year of his past service with the employer as reduced by the employer's contribution, if any, to any provident fund (whether recognised or not) in respect of that employee for each such year

2 Subject to condition 1, eighty per cent of the amount actually paid by the employer by way of contribution during any previous year shall be the deductible allowance

3. One-fifth of such deductible allowance shall be allowed in the assessment year relating to the previous year in which the amount was actually paid and the balance of the deductible allowance shall be allowed in equal instalments for each of the four immediately succeeding assessment years

INTEREST ON PROVIDENT FUND: 4TH SCHEDULE TO 1961 ACT

(Notification No S O. 153(E), dated 25th March 1975)

In pursuance of clause (*b*) of rule 6 of Part A of the Fourth Schedule to the Income-tax Act, 1961 (XLIII of 1961), and in supersession of the Notification of the Government of India in the Ministry of Finance (Department of Revenue and Insurance) No S O. 225(E) dated the 30th March, 1974, the Central Government hereby fixes with immediate effect seven and a half per cent as the rate referred to in the said clause (*b*)

DATE SPECIFIED UNDER SEC. 40A(3) OF 1961 ACT

(Notification No S O 623, dated 14th February 1969)

In pursuance of sub-section (3) of section 40A of the Income-tax Act, 1961 (XLIII of 1961), the Central Government hereby specifies the 31st day of March, 1969, as the date for the purposes of that sub-section.

INVESTMENTS APPROVED FOR SEC. 54A(1) OF 1961 ACT*

(Notification No S O 349, dated 24th January 1967)

In pursuance of sub-section (1) of section 54A of the Income-tax Act, 1961 (XLIII of 1961), the Central Government hereby approves the following investments for the purposes of that section in respect of the assessment year commencing on and from the 1st day of April, 1965, and any subsequent assessment year, namely.—

1. (1) Investment by purchase of—

(*a*) National Savings Certificates (First Issue),

(*b*) National Savings Certificates (First Issue)—Bank Series,

(*c*) 12-Year National Defence Certificates,

(*d*) 10-Year Defence Deposit Certificates,

from any of the offices specified in sub-paragraph (2)

(2) The offices referred to in sub-paragraph (1) are—

(*i*) in the case of National Savings Certificates (First Issue), any post office doing Savings Bank work, or any office of the State Bank of India or any of its subsidiary banks,

(*ii*) in the case of National Savings Certificates (First Issue)—Bank Series, any office of the State Bank of India, or any of its subsidiary banks,

(*iii*) in the case of 12-Year National Defence Certificates, any post office doing Savings Bank work,

(*iv*) in the case of 10-Year Defence Deposit Certificates, the office of the Reserve Bank of India at Bangalore, Bombay, Calcutta, Madras, Nagpur or New Delhi, any branch of the State Bank of India or its subsidiary banks, conducting Government treasury business, any treasury or sub-treasury in India, or any Head Post Office or Departmental sub-Post Office, doing Savings Bank work

2. Investment by subscription to any security of the Central Government or of any State Government.

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* S 54A has been deleted by the Finance (No 2) Act, 1971, w e f 1-4-1972

3. Investment by subscription to an issue of ordinary shares by a public company formed and registered in India which is engaged or is to be engaged in the business of generation or distribution of electricity or any other form of power or of construction, manufacture or production of any one or more of the articles or things specified in the list in the Fifth Schedule to the Income-tax Act, 1961 (XLIII of 1961), for the time being in force, if such issue of ordinary shares satisfies the following conditions, namely —

(*a*) such issue is an initial issue of capital of an amount not less than twenty lakhs of rupees,

(*b*) such issue is one in which a prospectus is issued or a statement in lieu of prospectus is delivered to the Registrar of Companies on or after the 24th day of December, 1964, and in cases where a prospectus has been issued or a statement in lieu of prospectus has been so delivered before the said date, the subscription list in respect of such issue has not been closed before that date,

(*c*) any of the shares forming part of such issue is not offered for subscription at a premium,

(*d*) any of the shares forming part of such issue is not issued by way of consideration for the transfer of goodwill in relation to an asset or business,

(*e*) any of the shares forming part of such issue is not issued by way of consideration for the transfer of any asset or business (not including or comprising an element of goodwill of such asset or business, as the case may be) unless the consideration for such transfer is fixed at the book value of such asset or business as on the date of the transfer.

Explanation —"Initial issue of capital" means any issue of capital made for the first time by a public company, whether comprised in a single offer or in two or more offers

Provided that in the case of a company which had originally been incorporated as a private company but has become a public company under the provisions of the Companies Act, 1956 (I of 1956), an issue of ordinary shares made for the first time by it after it has so become a public company shall not constitute an initial issue of capital, if—

(*i*) such company had declared, distributed or paid any dividend when it was a private company, or

(*ii*) such company has, when it was a private company, created in its books a goodwill of business or made any revaluation of its assets over the book value thereof, or

(*iii*) such issue is for an amount which is less than the paid-up equity capital of the company as on the date of its becoming a public company

PROVIDENT FUND NOTIFIED UNDER SEC. 80C(2)(a)(iv) OF 1961 ACT

(*Notification No S O 2431, dated 2nd July 1968*)

In pursuance of sub-clause (*iv*) of clause (*a*) of sub-section (2) of section 80C of the Income-tax Act, 1961 (XLIII of 1961), the Central Government hereby notifies the Public Provident Fund established under the Public Provident Fund Scheme, 1968, as a provident fund to which the said sub-clause shall apply

INSTITUTION NOTIFIED UNDER SEC. 80D(2)(i) OF 1961 ACT

(*Notification No S O 251, dated 12th January 1970*)

In pursuance of clause (*i*) of sub-section (2) of section 80D of the Income-ta Act, 1961 (XLIII of 1961), the Central Government hereby notifies "Occupation Therapy Home for Children, Karol Bagh, New Delhi", as an institution for th care of handicapped persons

PLACES SPECIFIED UNDER SEC. 80G(2)(b) OF 1961 ACT

In exercise of the powers conferred by s 80G(2)(*b*) [corresponding to the ol s 88(6)] of the Income-tax Act, 1961, the Central Government has notified th following places to be of historic, archaeological or artistic importance or as plac of public worship of renown throughout the State or States

	Places	*Notifications*
1	Sri Meenakshi Sundareswarar Temple, Madurai	S O 2573, 6- 8-1962
2	Sri Jambukeswarar and Sri Akhilandeswari Temple, Tiruvanaikoil, Tiruchirapalli District, Madras State	S O 2806, 17- 9-1963
3	Sri Nachiar (Sri Andal) and other temples under the Sri Nachiar Devasthanam, Srivilliputhur, Madras State	S O 2869, 5-10-1963
4	Shri Devarajaswamy Devasthanam Temple, Little Kanchipuram, Madras State	S O 2575, 18- 7-1964
5	Sri Sangameswarar Temple, Bhavani, Coimbatore District, Madras State	S O 2681, 27- 7-1964
6	Sri Kanyaka Parameswari Devasthanam and Charities, Kotwal Market, Madras	S O 3801, 24-10-1964
7	Shri Jagannath Temple, Puri	S O 1337, 15- 4-1965
8	Church of Bom Jesus, Goa	
9	Dargah Khwaja Moinuddin Chisti, Ajmer	
10	Gurdwara Harmandir Saheb, Amritsar	
11	Jama Masjid, Delhi	
12	Jama Masjid, Bombay	
13	Kali Temple, Kalighat, Calcutta	
14	Mount Mary Shrine, Bandra, Bombay	S O 1974, 19- 6-1965
15	Shri Padmanabhaswami Temple, Trivandrum	
16	Shri Kashi Vishwanath Temple, Varanasi	
17	Shri Dwarkadhish Temple, Dwarka	
18	Shri Venkateswara Temple, Tirupathi	
19	Shri Ramanatha Swami Temple, Rameshwaram	
20	Shri Bhramaramba Malikharjunaswami Devasthanam, Srisailam, District Kurnool, Andhra Pradesh	S O. 1975, 26- 6-1965
21	Shri Dattatreya Temple, Ghangapur, District Gulbarga, Mysore	S O 2353, 19- 7-1965
22	Sri Kasiviswanathaswamy Temple, Tenkashi, Madras State	S O. 2597, 7- 8-1965
23	Shri Bhadrachala Seetaramalaya Temple, Bhadrachalam	S O. 2598, 9- 8-1965
24	Sri Lakhmi Narasimha Swamy Devasthanam, Ahobilam Village, Allagadda Taluk, District Kurnool, Andhra Pradesh	S O 2800, 30- 8-1965
25	Sri Poovnanathaswamy Temple, Kovilpatti, Tirunelveli District, Madras State	S O 2876, 9- 9-1965
26	Sri Brihadiswaraswami Temple, Thanjavur, Madras State	S O 3047, 20- 9-1965

	Places	Notifications
27	Shree Rama Vaikunth Temple, Pushkar (Ajmer)	S O 3140, 25- 9-1965
28	St Paul's Cathedral, Ambala (Punjab)	S O 3429, 22-10-1965
29	St Andrew's Church, Calcutta	S O 3626, 18-11-1965
30	Sri Nataraja Temple, Chidambaram, Madras State	S O 171, 5- 1-1966
31	Shamlaji Temple, Shamlaji Taluka, Bhiloda, District Sabarkantha (Gujarat)	S O 2289, 14- 7-1966
32	Sri Chandra Choodeswara Swamy Temple, Hosur, Salem District, Madras State	S O 2290, 14- 7-1966
33	Sri Kaleshwaraswamy Temple, Kaleshwaram (v), Manthani Taluk, Karimnagar District, Andhra Pradesh	S O 3277, 13-10-1966
34	Shri Madurakali Amman Temple (Siruvachur), Perambalur Taluk, Tiruchirapalli District, Madras	S O 372, 11- 1-1967
35	Sri Subramaniaswamy Temple, Kumarayayalur, Madras State	S O 1466, 6- 4-1967
36	Shri Purshotamaperumal Temple, Nangoor, Madras	S O 1739, 28- 4-1967
37	Shri Parthasarathy Swamy Devasthanam, Triplicane, Madras	S O 1740, 28- 4-1967
38	Sri Mogileswara Swamy Temple Trustee Board, Mogili, Andhra Pradesh	S O 1741, 8- 5-1967
39	Sri Narasimhaswami Devasthanam Temple, Namakkal, Salem District, Madras State	S O 2570, 5- 7-1967
40	Sri Ranganathaswamy Temple, Sreerangapatna, Mandya District	S O 2571, 20- 7-1967 (items 40–46)
41	Sri Srikanteswaraswamy Temple, Nanjangud, Mysore District	
42	Sree Melai Mahadeswaraswamy Temple, Kollegal Taluk, Mysore District	
43	Sree Subramanyaswamy Temple, Ghati Doddaballapur Taluk, Bangalore (Rural) District	
44	Sri Anjaneyaswamy Temple, Mulbagal, Kolar District	
45	Sree Virupaksha Temple, Hampi, Hospet Taluk, Bellary District	
46	Sree Pralayakalada Veerabhadraswamy Temple, Gavipuram, Bangalore District	
47	Sri Dharmasamvardhinisametha Sri Kailasanathaswami Temple, Kambarasanpettai, Tiruchirapalli, Madras State	S O 2572, 20- 7-1967
48	Shri Swaminatha Swami Temple, R K Puram, New Delhi	S O 4160, 16-11-1967
49	Birla Mandir, New Delhi	S O 751, 13- 2-1968 (items 49–59)
50	Gauri Shankar Mandir, Delhi	
51	Hanuman Mandir, New Delhi	
52	Jain Mandir, Delhi	
53	Moti Masjid, Red Fort, Delhi	
54	Dargah Hazrat Khwaja Nizamuddin Aulia, Delhi	
55	St James Church, Delhi	
56	Methodist Church, Delhi	
57	Cathedral Church of the Redemption, New Delhi	
58	Gurdwara Sis Ganj, Delhi	
59	Gurdwara Rakabganj, New Delhi	
60	Astakshari Kshetram, Badrinath, Uttar Pradesh	S O 1375, 4- 4-1968

	Places	*Notifications*
61	Sri Subramaniyaswamy Devasthanam, Tiruthani	S O 4090, 29-10-1968
62	Sri Tirukachinambigal and Sri Varadarajaperumal Devasthanam, Poonamallee, Madras	S O 512, 22- 1-1969
63	Temple of Shri Mangesh at Priol, Goa	S O 1949, 12- 5-1969
64	Shri Badrinath and Kedarnath Temples	S O 3069, 19- 7-1969
65	Gurdwara Bangla Sahib, Delhi	137 F 14-10-1969 16/16/69-IT(AI), (subject to certain conditions)
66	Gurdwara Mata Sundri Ji, Delhi	
67	Gurdwara Dam Dama Sahib, Delhi	
68	Gurdwara Moti Bagh Sahib, Delhi	
69	Gurdwara Bala Sahib, Delhi	
70	Gurdwara Nanak Piao, Delhi	
71	Gurdwara Majnu Tilla, Delhi	
72	Shri Mahadeva Temple, Valiasala, Kerala	159 F 8-12-1969 16/26/68-IT(AI),
73	Sri Kamakshi Amman and Sri Ekambaranathaswami Temple, Sadhurangapatnam, Chingleput District, Madras	S O 736, 2- 2-1970
74	Sri Arunachaleswarar Devasthanam, Tiruvannamalai	92 F 5- 6-1970 176/27/70-IT(AI), (subject to certain conditions)
75	Shri Devanathaswamy Temple, Cuddalore	S O 2321, 5- 6-1970
76	Shri Shantesh Maruthi Devasthan, Hirekerur, District Dharwar	S O. 2391, 9- 6-1970
77	Shri Satya Gnana Sabai, Vadalar, Cuddalore District	S O 16, 23-10-1970
78	Sri Balasarduleeswarar Temple, Nellorepet, Gudiyattam, North Arcot District	S O 630, 26-10-1970
79	Shri Athmanathaswamy Temple, Avadayarkoil, Arantangi Taluk, Thanjavur District	S O 153, 12-11-1970
80	Sri Krishna Temple, Guruvayur	S O 692, 31-12-1970
81	Sri Kalyana Ranganathaswamy Temple, Thirunagari, Sirkali	S O 3795, 8- 7-1971
82	Thirupapuliyur Shri Pataleeswarar Temple, Cuddalore-2	S O 3492, 26- 7-1971
83	Shri Drighvishuji Ka Mandir, Bharatpurgate, Mathura	S O 3493, 26- 7-1971
84	Shri Veer Bhaddeshwarji Ka Mandir, Gali Peer Panch, Mathura	
85	Shree Sidhi Vinayak Temple, Sarasbagh	S O 179, 19-10-1971
86	Shree Deva Deveshwar Temple, Parvati	
87	Shree Vishnu Narayan Temple, Parvati	
88	Shree Kartik Swami Temple, Parvati	
89	Shree Mrutyunjayeshwar Temple,Kothrud	
90	Shree Dasabhuja Ganpati Temple, Yarandavanda	
91	Thiruvali Sri Lakshmi Narasimha Perumal Sannadhi, P O Thiruvali, Taluk Sirkali, District Tanjore	S O 2389, 10-11-1971
92	Sri Siddalingeswara Temple, Tumkur District, Mysore	S O 2457, 17- 1-1972
93	Shri Ram Temple, Chaphal, District Satara, Maharashtra	S O 3204, 18- 7-1972
94	Shree Trimbakeshwar Temple, Trimbak, District Nasik	S O 3131, 3- 8-1972
95	Sri Adhi Jagannatha Perumal Temple, Tiruppullani, Ramanathapuram District	S O 4029, 26- 8-1972
96	Dargah Hazrath Syed Mardan-e-Gaib, Sunni, Shivasamudram	S O 4030, 7- 9-1972

	Places	Notifications
97	Shri Anandavalli Sametha Sundaravarada Perumal Temple, Uttiramerur, Chingleput District	202 F 10-10-1972 176/66/72-IT(AI),
98	Sheth Pestonji Kalabhai Vakil Kadmi Atash Behram (Fire Temple), Surat	S O 4032, 18-10-1972
99	Sri Ram Mandir, Bajrangpuri, Lodi Road, New Delhi	S O 937, 25-11-1972
100	Ubrangala Shree Mahadeva Parvathi and Kudkuli Shri Durga Parameshwari Temples, Ubrangala Village, Kasaragod Taluk, P O Kumbdaje	S O 260, 28-11-1972
101	Shri Mahalasa Narayani Temple, Verna, Goa	S O 607, 24- 1-1973
102	Sri Thiruvateeswar Temple, Triplicane, Madras-5	291 F 8- 2-1973 176/94/72-IT(AI),
103	Sri Sivasailanathaswamy Temple, Sivasailam, Tirunelveli District	297 F 21- 2-1973 176/14/72-IT(AI), (w e f 1-4-1972)
104	Shri Selva Vinayagar Temple, Madras	300 F. 23- 2-1973 176/7/73-IT(AI),
105	Shri Ananthapadmanabhaswamy Temple, Kasargod, Cannanore	S O 993, 26- 2-1973
106	Shri Kalamegaperumal Temple, Thirumohur, Madurai District	S O 994, 27- 2-1973
107	Kadri Shri Manjunatha Temple, Mangalore	S O 1595, 21- 4-1973
108	Sri Kalahateeswara Swami Devasthanam, Srikalahasti (A P)	S O 1837, 30- 4-1973
109	Koniyamman Temple, Coimbatore	S O 1838, 4- 5-1973
110	Shri Vedantha Desikar Devasthanam, Madras	S O 1839, 18- 5-1973
111	Sri Murudeswarar Veeranarayana-perumal Temple, Kodumudi, Erode Taluk, Coimbatore District	375 F 11- 6-1973 176/29/73-IT(AI),
112	Shri Devi Karumariamman Thirukkoil, Madras	389 F 23- 6-1973 176/18/73-IT(AI),
113	Shri Raja Rajeswari Temple, Madras	S O 2572, 5- 7-1973
114	Sri Durga Malleshwaraswami Varla Devasthanam, Vijayawada	S O 2861, 17- 8-1973
115	Shri Kanchi Kamakshi Amman Devasthanam, Big-Kancheepuram, Tamil Nadu	S O 2862, 27- 8-1973
116	Lord Subramania Temple, Chedda Nagar, Pestom Sagar, Chembur, Bombay-89	S O 3145, 30- 8-1973
117	Shree Koodal Manickom Temple, Irinjalakuda, Kerala	S O 649, 4- 2-1974
118	Shri Bhuvarahaswamy Temple, Srimushnam, South Arcot District	S O 739, 8- 2-1974
119	Sri Avanashi Lingeswarar Temple, Avanashi, Coimbatore District	S O 826, 18- 2-1974
120	Jain Swetember Panchayati Temple, Calcutta	S O 827, 21- 2-1974
121	Sri Biligirirangaswamy Temple, Biligirirangana Hills, Yelandur Taluk, Mysore State, Karnataka	S O 1097, 23- 3-1974
122	Nanded Sikh Gurudwara Sachkhand Sri Hazur Abchalnagar Sahib	S O 1440, 17-4-1974
123	Arulmigu Meenakshisundreswarar Tirukoil Temple, Madurai	661 F 27- 6-1974 176/31/74-IT(AI),
124	Shri Krishna Janam Bhoomi, Mathura	S O 1979, 6- 7-1974 (amended S O 4399, 14-8-1975)
125	Shree Wadakkunnathan Temple, Trichur	S O 684, 20- 7-1974

	Places	Notifications
126	Sri Annapurna Devi Mandir, Varanasi	S O 2480, 12- 8-1974
127	Sri Parthasarathyswamy Devasthanam, Triplicane, Madras	707 F 20- 8-1974 176/38/74-IT(AI),
128	Sri Peria Vachan Pillai Temple, Senganur, Tamil Nadu	732 F 5-10-1974 176/51/73-IT(AI),
129	Sri Dhandayuthapani Swami Temple, Palani, Madurai District, Tamil Nadu	764 F 26-10-1974 176/53/74-IT(AI),
130	Shri Anjaneya Swami Temple, Gopichettipalayam, Coimbatore District, Tamil Nadu	769 F 8-11-1974 176/55/74-IT(AI),
131	Shri Chaurasi Ghante Mandir, Bazar Sitaram, Delhi	S O 503, 6-12-1974
132	Yadgari Ashthan Sriman Sant Sangat Singh Ji Maharaj Kamaliawale, Patiala	S O 504, 6-12-1974
133	Sri Masilamaniswarar Temple, Vada Thirumullaivayal, Saidapet Taluk	819 F 15- 1-1975 176/65/74-IT(AI),
134	Sri Eachanari Vinayagar Temple (Koil), Coimbatore District	822 F 22- 1-1975 176/6/75-IT(AI),
135	Sri Vyagarapuraswarar Temple, Thiruppulivanam, Chingleput District	830 F 4- 2-1975 176/7/75-IT(AI),
136	Thirumoozhikulam Shree Lakshmana Perumal Temple, Ankamali, Kerala	S O 928, 6- 2-1975
137	Sri Kalyana Venkateswara Perumal Temple, Illupur, Kulathur Taluk, Pudukottai District, Madras	833 F 6- 2-1975 176/13/75-IT(AI),
138	Sri Devarajaswamy Devasthanam, Kancheepuram, Madras	834 F. 6- 2-1975 176/14/75-IT(AI),
139	Sri Madhurakali Amman Temple, Siruvachur, Perambalur Taluk, Trichy District, Madras	835 F 6- 2-1975 176/15/75-IT(AI),
140	Sri Vaidyanatha Swamy Temple, Madavarvilagam, Srivilliputtur, Ramanathapuram District, Tamil Nadu	863 F 31- 3-1975 176/3/74-IT(AI),
141	Shri Durgiana Temple, Amritsar	S O 1672, 21- 4-1975
142	Shri Sankara Narayana Swamy Temple, Sankara Nainar Koil, Tirunelveli District, Madras	884 F 28- 4-1975 176/42/75-IT(AI),
143	Shri Madhavaperumal Temple, Mylapore, Madras-4	894 F. 12- 5-1975 176/41/75-IT(AI),
144	Sri Subramaniaswamy Temple, Kumaravayalur, Trichy District, Tamil Nadu	S O 1979, 17- 5-1975
145	St Paul's Cathedral, Chowringhee Road, Calcutta	S O 2262, 21- 5-1975
146	Sri Ranganatha Paduka Ashram, R K Puram, New Delhi	S O 4054, 23- 7-1975
147	Shri Kasi Kamakoteeswarer Mandir, Varanasi	S O 4748, 13- 8-1975
148.	St John's Church, 2/1, Council House Street, Calcutta	S O 4749, 13- 8-1975
149	Sri Lakshminarasimhaswamy Temple, Ponvilainthakalathur	S O 5285, 29-10-1975

N.B.—In the absence of any authoritative and up-to-date Government publication, it is not possible to know whether the above Notifications represent a complete list of those Notifications which are currently in operation.

NOTIFICATIONS UNDER SEC. 80L(1)(ii) AND PROVISO (ii-b) TO SEC. 193 OF 1961 ACT

(Notification No S.O 308(E), dated 21st April 1972)

In exercise of the powers conferred by clause (*ii*) of sub-section (1) of section 80L and clause (*ii-b*) of the proviso to section 193 of the Income-tax Act, 1961 (XLIII of 1961), and clause (*xxiv*) of sub-section (1) of section 5 of the Wealth-tax Act, 1957 (XXVII of 1957), the Central Government hereby specifies the debentures issued by the State Electricity Boards, constituted under section 5 of the Electricity (Supply) Act, 1948 (LIV of 1948), between the 1st March, 1972, and the 31st March, 1974, in pursuance of any scheme for raising resources in rural areas, for the purposes of the said clauses

Provided that such debentures satisfy the following conditions, namely —

(*i*) they are not guaranteed by any Government as to the repayment of the principal or payment of interest,

(*ii*) they are issued initially only to individuals,

(*iii*) they are issued subject to the condition that for a period of one year from the date of issue, they cannot be transferred to any person other than an individual, and

(*iv*) they carry interest at a rate not exceeding 7½% per annum

(Notification No S O 669, dated 4th July 1974)

In exercise of the powers conferred by clause (*ii*) of sub-section (1) of section 80L, and clause (*ii-b*) of the proviso to section 193, of the Income-tax Act, 1961 (XLIII of 1961), and clause (*xxiv*) of sub-section (1) of section 5 of the Wealth-tax Act, 1957 (XXVII of 1957), the Central Government hereby specifies the debentures issued by the State Electricity Boards, constituted under section 5 of the Electricity (Supply) Act, 1948 (LIV of 1948), between the 1st April, 1974, and the 31st March, 1976, in pursuance of any scheme for raising resources in rural areas, for the purposes of the said clauses

Provided that such debentures satisfy the following conditions, namely —

(*i*) they are not guaranteed by any Government as to the repayment of the principal or payment of interest,

(*ii*) they are issued initially only to individuals,

(*iii*) they are issued subject to the condition that for a period of one year from the date of issue, they cannot be transferred to any person other than an individual, and

(*iv*) they carry interest at a rate not exceeding *10 25 per cent per annum

(Notification No S O 400(E), dated 2nd June 1972)

In exercise of the powers conferred by clause (*ii*) of sub-section (1) of section 80L of the Income-tax Act, 1961 (XLIII of 1961), the Central Government hereby specifies with effect from the date of publication of this Notification in the Official Gazette, the Industrial Finance Corporation of India as an institution for the purposes of the said clause.

*Substituted for "8½%" by Notification No S O 934, dated 11-2-1975

(Notification No. S.O. 1798, dated 10th April 1975)

In exercise of the powers conferred by clause (*ii*) of sub-section (1) of section 80L of the Income-tax Act, 1961 (XLIII of 1961), the Central Government hereby specifies the 6 per cent 10-Year Bonds, 1985, issued by the Industrial Reconstruction Corporation of India Ltd between the 1st April, 1975, and the 31st March, 1977, for the purposes of the said clause

SCHEMES NOTIFIED UNDER SEC. 80L(1)(iii) OF 1961 ACT

(Notification No S O. 2879, dated 1st September 1970)

In pursuance of clause (*iii*) of sub-section (1) of section 80L of the Income-tax Act, 1961 (XLIII of 1961), (as substituted by section 14 of the Finance Act, 1970), the Central Government hereby notifies the following schemes as schemes to which the said clause shall apply, namely —

(*a*) The scheme of Post Office (Time Deposits) governed by the Post Office (Time Deposits) Rules, 1970

(*b*) The scheme of Post Office (Recurring Deposits) governed by the Post Office (Recurring Deposits) Rules, 1970.

2 This Notification shall come into force on the 1st day of April, 1971.

INSTITUTIONS NOTIFIED UNDER SEC. 80R OF 1961 ACT

In exercise of the powers conferred by s. 80R of the Income-tax Act, 1961, the Central Government has notified the following institutions for the purposes of that section

	Institutions	*Notifications*
1	International Council of Social Welfare, New York	S O 3036, 20- 7-1973
2	Asian Productivity Organization, Tokyo	S O 3138, 21-10-1974

EXEMPTIONS UNDER SEC. 104(3) OF 1961 ACT

(Notification No. S O 2817, dated 14th August 1964)

In exercise of the powers conferred by sub-section (3) of section 104 of the Income-tax Act, 1961 (XLIII of 1961), the Central Government, being of opinion that it is necessary and expedient in the public interest so to do, hereby exempts every Indian company engaged wholly or partly in the business of printing and publishing newspapers, magazines and journals or any one or more of them, from the operation of that section in respect of the previous year relevant to the assessment year commencing on the 1st day of April, 1965, and any subsequent assessment year:

Provided that—

(*a*) such publication or publications is or are printed in the press owned by the company,

(*b*) the value of the capital assets of the company being plant and machinery (other than office appliances and road transport vehicles) as shown in its books of account on the last day of the relevant previous year exceeds rupees ten lakhs but is less than rupees fifty lakhs, and

(*c*) where the company is only partly engaged in such business, its income, attributable to the said business, which is included in its total income for the relevant previous year, is not less than fifty-one per cent of such total income

(Notification No S O. 3210, dated 8th August 1969)

In exercise of the powers conferred by sub-section (3) of section 104 of the Income-tax Act, 1961 (XLIII of 1961), and in partial modification of the Ministry of Finance (Department of Revenue and Insurance) Notification No S O 2007 dated the 6th June, 1967, the Central Government, being of opinion that it is necessary and expedient in the public interest so to do, hereby exempts every Indian company [not being an investment company as defined in clause (*ii*) of section 109 of that Act] from the operation of the said section 104, in respect of the previous year relevant to the assessment year commencing on the 1st day of April, 1970, and any subsequent year·

Provided that such Indian company, in the course of its business,—

(*a*) exports any goods or merchandise out of India, or

(*b*) performs any constructional operations or renders any service outside India; or

(*c*) provides or makes available to any enterprise or institution, association, or other body established outside India, any technical know-how being any patent, invention, model, design, secret formula or process, or similar property right, or information concerning industrial, commercial or scientific knowledge, experience or skill,

and the sale proceeds of the exports referred to in item (*a*) or, as the case may be, the income accruing to the company from the activities of its business referred to in item (*b*) or item (*c*) is received in or brought into India by the company or on its behalf in accordance with the Foreign Exchange Regulation Act, 1947 (VII of 1947), and any rules and orders made thereunder

Provided further that the sale proceeds derived by the company from the exports, if any, referred to in item (*a*) and the gross receipts derived by it from the activities of its business referred to in item (*b*) or item (*c*) or both, during the previous year, amount, in the aggregate, to 50 per cent or more of the aggregate amount of the sale proceeds and all other gross receipts of the business during the previous year credited to the profit and loss account of the company

AUTHORITIES SPECIFIED UNDER SEC. 138(1)(a)(ii) OF 1961 ACT

In pursuance of s 138(1)(*a*)(*ii*) of the Income-tax Act, 1961, the Central Government has specified the following authorities —

	Authorities	*Notifications*
1	The Registrar of Companies	S O 1237, 29- 3-1968
2	The Cane Commissioner, U P	S O 3490, 7- 7-1971
3	The Commission of Inquiry on Large Industrial Houses	S O 782, 23- 1-1973
4	The Commissioners for Departmental Inquiries, appointed as the Inquiring Authority under section 3(*b*) of the Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1972	S O 3371, 30-10-1973
5	Every officer of or above the rank of a Superintendent of Police of the Delhi Special Police Establishment, constituted by the Delhi Special Police Establishment Act, 1946*	S O 4165, 8- 8-1975
6	Director of Vigilance and Anti-corruption, Madras	S O 4259, 23- 8-1975

*This item seems to have been inadvertently repeated in Notification No S O 4747, dated 8-8-1975

NOTIFICATION UNDER SEC. 138(2) OF 1961 ACT

(Notification No S O 2048, dated 23rd June 1965)*

In exercise of the powers conferred by sub-section (2) of section 138 of the Income-tax Act, 1961 (XLIII of 1961) (hereinafter referred to as the Act), the Central Government, having regard to the practices and usages customary among banking companies and to other relevant factors, hereby directs that no public servant shall—

(*i*) furnish any information contained in any statement made, return furnished or accounts or documents produced under the provisions of the Act, or in any evidence given, affidavit or deposition made in the course of any assessment proceedings under the Act or the Indian Income-tax Act, 1922 (XI of 1922) (other than proceedings under Chapter XXII of the Act or Chapter VIII of the Indian Income-tax Act, 1922), or in any record of any assessment proceeding or any proceeding relating to recovery of a demand, by or on behalf of or in respect of an assessee being a banking company within the meaning of section 34A of the Banking Companies Act, 1949 (X of 1949), or

(*ii*) produce before any person or authority any such document or record or part thereof

Provided that nothing contained hereinbefore shall apply to the disclosure of such information (including the production of such document or record)—

(*i*) for the purpose of a prosecution for any offence under the Indian Penal Code in respect of any such statement, return, accounts, documents, evidence, affidavit or deposition or for the purpose of a prosecution for any offence under the Act, or

(*ii*) to any person acting in the execution of the Act, where it is necessary or desirable to disclose the same to him for the purposes of the Act, or

(*iii*) where the disclosure is occasioned by the lawful employment under the Act of any process for the service of any notice or the recovery of any demand under the Act, or

(*iv*) where the disclosure is to an authorised officer of the Central Government or a State Government and is necessary for the purpose of enabling that Government to levy or realise any tax imposed by it, or

(*v*) where the disclosure is made in pursuance of any order made under sub-section (2) of section 19 of the Foreign Exchange Regulation Act, 1947 (VII of 1947), or for the purpose of any proceeding or of a prosecution for an offence under section 23 of that Act, or

(*vi*) to the Reserve Bank of India for enabling it to compile financial statistics of international investment and balance of payments, or

(*vii*) to an authorised officer of the Government of any country outside India for the granting of relief in respect of, or for the avoidance of, double taxation as may be necessary for the purposes of section 90 of the Act, or

(*viii*) where the disclosure is occasioned by the lawful exercise by any public servant of his powers under the Indian Stamp Act, 1899 (II of 1899), to impound an insufficiently stamped document, or

(*ix*) to a civil court in any suit or proceeding to which the Government or any income-tax authority is a party, which relates to any matter arising out of any proceeding under the Act or under any other law for the time being in force authorising any income-tax authority to exercise any powers thereunder, or

*A similar Notification, No. S O 1043, dated 30th March 1966, has been issued under s 138 of the Income-tax Act, 1961, read with s 18 of the Companies (Profits) Surtax Act, 1964

(*x*) to the Comptroller and Auditor-General of India for the purpose of enabling him to discharge his functions under the Constitution, or

(*xi*) to any officer appointed by the Comptroller and Auditor-General of India or the Central Board of Direct Taxes to audit income-tax receipts or refunds; or

(*xii*) for the purpose of any inquiry into the conduct of an official of the Income-tax Department, to any person appointed Commissioner under the Public Servants (Inquiries) Act, 1850 (XXXVII of 1850), or to an officer otherwise appointed to hold such inquiry, or to a Public Service Commission established under the Constitution, when exercising its functions in relation to any matter arising out of any such inquiry, or to a Court in connection with the prosecution arising out of any such inquiry, or

(*xiii*) to any Commission of Inquiry appointed by the Central Government under the Commissions of Inquiry Act, 1952 (LX of 1952), or to any authority to which the provisions of that Act have been made applicable by the Central Government, if such information or document is required for the purpose of any inquiry by such Commission or authority and the previous permission of the Central Government had been obtained, or

(*xiv*) for the purpose of an inquiry into a charge of misconduct in connection with income-tax proceedings against a legal practitioner or a chartered accountant, to the authority empowered to take disciplinary action against members of the profession to which he belongs, or

(*xv*) to any officer or department of the Central Government or of a State Government for the purpose of investigation into the conduct and affairs of any public servant or to a court in connection with any prosecution of the public servant arising out of any such investigation

INSTITUTIONS NOTIFIED UNDER SEC. 194A(3)(iii)(f) OF 1961 ACT

In pursuance of s 194A(3)(*iii*)(*f*) of the Income-tax Act, 1961, the Central Government has notified the following institutions

	Institutions	*Notifications*
1	The Industrial Credit and Investment Corporation of India Ltd , Bombay	S O 3200, 4- 9-1967
2	The Gujarat Co-operative Housing Finance Society Ltd , Ahmedabad	S O 3200, 4- 9-1967
3	The Maharashtra Co-operative Housing Finance Society Ltd , Bombay	S O 3482, 23- 9-1967
4	The Andhra Pradesh Industrial Development Corporation Ltd , Hyderabad	S O 4203, 2-12-1967
5	The National Industrial Development Corporation Ltd , New Delhi	S O 95, 4- 1-1968
6	The Madras Industrial Investment Corporation Ltd , Madras	S O 1227, 30- 3-1968
7.	The State Industrial and Investment Corporation of Maharashtra Ltd , Bombay	S O 1854, 17- 5-1968
8.	The National Small Industries Corporation Ltd , New Delhi	S O 2149, 13- 6-1968
9	The Kerala State Industrial Development Corporation Ltd , Trivandrum	S O 2882, 24- 8-1968
10	The Hindustan Steel Ltd , P O Hinoo, Ranchi-2	S O 4222, 23-11-1968
11	The Minerals and Metals Trading Corporation of India Ltd , Bahadur Shah Zaffar Marg, New Delhi	S O 4222, 23-11-1968
12	The State Trading Corporation of India Ltd , 9 and 10, Bahadur Shah Zaffar Marg, New Delhi	S O 4222, 23-11-1968

	Institutions	*Notifications*
13	M/s Amratlal Ravjibhai Parikh, Manek Chowk, Ahmedabad	S O 851, 20- 2-1969
14	The M P Audyogic Vikas Nigam Ltd, A Block, Old Secretariat, Bhopal, Madhya Pradesh	S O 1516, 16- 4-1969 (for three years)
15	The Madhya Pradesh State Road Transport Corporation, Bairagarh, Bhopal	S O 1581, 21- 4-1969 (for three years)
16	The Gujarat Electricity Board, Vidyut Bhavan, Race Course, Baroda-7	S O 1825, 30- 4-1969
17	The Hindustan Machine Tools Ltd, P O HMT, Bangalore-31	S O 2127, 22- 5-1969
18	The National Textile Corporation Ltd, Udyog Bhavan, New Delhi-11	S O 2123, 22- 5-1969
19	The Agricultural Finance Corporation Ltd, Stadium House, Veer Nariman Road, Bombay-20	S O 2164, 22- 5-1969
20	The Tea Board, 14, Brabourne Road, Calcutta-1	S O 3070, 22- 7-1969
21	The Gujarat State Textile Corporation Ltd, Ahmedabad-9	S O. 4712, 21-11-1969
22	Indian Overseas Bank, 151, Mount Road, Madras-2	S O 710, 16- 2-1970 (w e f 19- 7-1969)
23	Indian Bank, Indian Chamber Building, Madras-1	
24	Allahabad Bank, 14, India Exchange Place, Calcutta-1	
25	Dena Bank, Devkaran Nanjee Building, 17, Horniman Circle, Fort, Bombay-1	
26	Canara Bank, 112, Jayachamarajendra Road, Bangalore-1	
27	Union Bank of India, 66/80, Apollo Street, Fort, Bombay-1	
28	United Commercial Bank, 10, Brabourne Road, Calcutta-1	
29	Bank of Baroda, 3, Walchand Hirachand Marg, Bombay-1	
30	Punjab National Bank, Parliament Street, New Delhi-1	
31	Bank of India, 70/80, Mahatma Gandhi Road, Bombay-1	
32	Central Bank of India, Mahatma Gandhi Road, Bombay-1	
33	United Bank of India, 4, Narendra Chandra Datta Srani (Clive Ghat Street), Calcutta-1	
34	Bank of Maharashtra, 1177 Peth, Poona-2	
35	Syndicate Bank, Manipal, Mysore State, Mysore	
36	The District, Taluka, Nagar and Gram Panchayats constituted under the Gujarat Panchayats Act, 1961, within the State of Gujarat	S O 828, 24- 2-1970
37	The Market Committees established under the State Agricultural Produce Markets Acts in various States	S O 2203, 16- 6-1970
38	Any corporation established by a Central, State or Provincial Act	S O 3489, 22-10-1970
39	Any company in which all the shares are held (whether singly or taken together) by the Government or the Reserve Bank of India or a corporation owned by that Bank	
40	Any undertaking or body, including a society registered under the Societies Registration Act, 1860 (XXI of 1860), financed wholly by the Government	
41	The Cawnpore Anti-Tuberculosis Association, Kanpur	S O 315(E), 29- 3-1972
42	M/s Amratlal Ravjibhai Parikh, Ahmedabad	S O 362, 16-11-1973
43	M/s Amratlal Ravjibhai Parikh, Baroda	
44	M/s Amratlal Ravjibhai Parikh, Anand	
45	M/s Amratlal Ravjibhai Parikh, Nadiad	

Note: entries 22–35 are bracketed together under S O 710; entries 38–40 under S O 3489; entries 42–45 under S O 362.

	Institutions	Notifications
46	The Madhya Pradesh State Textile Corporation Ltd , 35, Civil Lines, Bhopal, Madhya Pradesh	S O 825, 8- 2-1974
47	The Maharashtra State Textile Corporation Ltd , Vashani Chambers, 47, New Marine Lines, Bombay-20	S O 2479, 16- 7-1974
48	The Kerala State Textile Corporation Ltd , Cochin	S O 2677, 21- 9-1974
49	The Steel Authority of India Ltd , New Delhi	S O 1274, 11- 3-1975

SCHEMES NOTIFIED UNDER SEC. 194A(3)(vi) OF 1961 ACT

(Notification No S O 2878, dated 1st September 1970)

In pursuance of clause (*vi*) of sub-section (3) of section 194A of the Income-tax Act, 1961 (XLIII of 1961), the Central Government hereby notifies the following schemes as schemes to which the said clause shall apply, namely —

(*a*) The scheme of Post Office (Time Deposits) governed by the Post Office (Time Deposits) Rules, 1970

(*b*) The scheme of Post Office (Recurring Deposits) governed by the Post Office (Recurring Deposits) Rules, 1970

NOTIFICATIONS UNDER PROVISO TO SEC. 211(1) OF 1961 ACT

In exercise of the powers conferred by the proviso to s 211(1) of the Income-tax Act, 1961, the Central Board of Direct Taxes has authorised the undermentioned assessees falling under s 211(1)(*i*) to pay the last instalment of advance tax on the 15th March during a financial year, instead of on the 15th December

	Assessees	Notifications	
1	All assessees who carry on the business of growing and manufacturing tea in India	S O 331,	23-1-1970
2	All companies who carry on the business of insurance in India	S O 410,	29-1-1970
3	All assessees who carry on the business of growing coffee in India	533F 400/49/73-ITCC,	2-1-1974
4	All assessees who carry on the business of growing rubber and cardamom in India	570 F 400/49/73-ITCC,	6-3-1974

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DOUBLE TAXATION RELIEF AND TAX TREATIES

THE INCOME-TAX (DOUBLE TAXATION RELIEF) (DOMINIONS) RULES, 1956*

(*Notification No. S R O 1534, dated 23rd June 1956*)

In exercise of the powers conferred by section 49A of the Indian Income-tax Act, 1922 (XI of 1922), and in supersession of the Notification of the Government of India in the late Finance Department (Central Revenues), No 1, dated the 4th January, 1941, the Central Government makes the following rules for the granting of relief in respect of income on which tax has been paid both in the taxable territories and in certain of Her Majesty's Dominions, namely —

1. (1) These rules may be called the Income-tax (Double Taxation Relief) (Dominions) Rules, 1956

(2) They extend to the taxable territories as defined in section 2(*14A*) of the Indian Income-tax Act, 1922 (XI of 1922)

2. In these rules unless the context otherwise requires—

(*a*) "Dominion" means any of the territories specified in the first column of the Schedule annexed to these rules,

(*b*) "Dominion income-tax" means tax charged for any year in accordance with the provisions of the Dominion enactment specified in the second column of the said Schedule,

(*c*) "Dominion rate of tax" has the meaning assigned to it in the section of the respective Dominion enactment specified in the third column of the said Schedule,

(*d*) the expression "Indian income-tax" means income-tax and super-tax charged in accordance with the provisions of the Indian Income-tax Act, 1922 (XI of 1922),

(*e*) the expression "Indian rate of tax" means the amount of Indian income-tax exclusive of super-tax after deduction of any relief due to a claimant under the other provisions of the Indian Income-tax Act, 1922 (XI of 1922), but before deduction of any relief due to him under these rules, divided by his total income after deducting therefrom any income (including income from a share in an unregistered firm) exempted from tax by or under the provisions of the said Act, added to the amount of Indian super-tax before deduction of any relief due to the claimant under these rules divided by his total income

3. If any person who has paid by deduction under section 18 of the Indian Income-tax Act, 1922 (XI of 1922), or otherwise Indian income-tax for any year on any part of his income proves to the satisfaction of the Income-tax Officer that he has paid by deduction or otherwise Dominion income-tax for that year in respect of the same part of his income, he shall be entitled to a refund of a sum calculated on that part of his income at a rate to be determined as follows

*1 S 49A of the 1922 Act corresponds to s 90 of the 1961 Act Under s 297(2)(*k*) of the 1961 Act, this Notification is deemed to have been issued under s 90 of that Act and continues in force accordingly

2 These Rules continue in force in relation to Sierra Leone only, and not in relation to the other countries mentioned in the Schedule to the Rules (C B D T 's Circulars No 116, dated 10th July 1973, and No 172, dated 8th July 1975)

(i) if he is resident in the taxable territories the rate at ... given shall be—

(a) the Dominion rate of tax, when that rate does ... Indian rate of tax, and

(b) half the Indian rate of tax, in any other case

(ii) if he is not resident in the taxable territories the ... given shall be—

(a) half of the Dominion rate of tax when ... Indian rate of tax, and

(b) in any other case, the amount by which ... half of the Dominion rate of tax

Provided that in no case shall the rate at which ... half the Indian rate of tax appropriate to the income ... or be greater than the excess of the lower of the Indian ... its over the rate at which relief is given in the Dominion

4. (1) The application for refund of income-tax ... as follows —

(i) if the applicant is resident in the ... n which ... business Officer of the District in which the ... is charge- income-tax, or if he is not chargeable ... ion 42 or ... nay be of the District in which he ordinarily ... sdiction over

(ii) if the applicant is resident outside ... ployer paying Officer appointed by the Central ...

(2) Such application may be presented ... authorised agent or may be sent by post, and ... ssing the respec- ... aries or Indian Form I appended to these rules ... which such non- ... ipt of income

5. No claim to any refund of Indian ... shall be allowed unless it is made within ... year commencing next after the expiry of ... accrued or was received or was deemed ... brought into the taxable territories ... er, General Head- ... d at Poona

6. An applicant for refund under ... Assistant Commissioner of Income-tax ... disallowing the claim for refund either ...

7. The appeal shall be presented ... of the Income-tax Officer was comm... circumstances permit, be in Form II ...

Application for relief from double ...*

I,

[or under the

*In the case of ... for relief shall ... column thereof

1922), must be deemed to have paid] (name of Dominion) income-tax amounting to £ . for the year ending 19 on an income of £ .. . . and that Indian income-tax/income-tax and super-tax of Rs. ..... has also been paid [or under the provisions of section 49B of the Indian Income-tax Act, 1922 (XI of 1922), must be deemed to have been paid] on the same income†/part of the same income amounting to Rs . . I now pray for relief at the rate of. . amounting to Rs to which I am entitled under the Income-tax (Double Taxation Relief) (Dominions) Rules, 1956 My income from all sources during the previous year ending on the 19 , amounted to Rs . . .. . only—see Return of income attached/already submitted

Signature

I hereby declare that what is stated herein is correct.

Signature

Dated *19*

Serial No	Persons	Income-tax Officer appointed by the Central Board of Revenue to whom applications for relief should be made
1	2	3
1	Persons (excluding those who fall under Serial No 12) not residing in the taxable territories and not assessed through statutory agents under section 43, any part of whose income is derived from horse-racing	Income-tax Officer, A Ward, Poona.
2	Persons (excluding those who fall under Serial Nos 9, 10 and 12) not resident in the taxable territories whose total income is made up of income wholly taxed at source or dividends or both and which exceeds Rs 25,000	First Income-tax Officer, Non-Residents Refund Circle, Bombay.
3	Persons (excluding those who fall under Serial Nos 9, 10 and 12) not resident in the taxable territories claiming double income-tax relief whose total world income in the previous three years exceeded Rs 25,000	First Income-tax Officer, Non-Residents Refund Circle, Bombay
4	Persons (excluding those who fall under Serial Nos 9, 10 and 12) not resident in the taxable territories whose total world income is over Rs 10,000 but not exceeding Rs 25,000 and total income is made up of income wholly taxed at source or dividends or both	Second Income-tax Officer, Non-Residents Refund Circle, Bombay City
5	Persons (excluding those who fall under Serial Nos 9, 10 and 12) not resident in the taxable territories claiming double income-tax relief whose total world income in the previous three years exceeds Rs 10,000 but does not exceed Rs 25,000	Second Income-tax Officer, Non-Residents Refund Circle, Bombay City

† Where the income on which income-tax has been charged differs from that on which super-tax has been charged, both amounts must be specified

Serial No 1	Persons 2	Income-tax Officer appointed by the Central Board of Revenue to whom applications for relief should be made 3
6	Religious and charitable institutions outside the taxable territories not liable to income-tax under section 4(3)(*i*) and (*ii*) of the Indian Income-tax Act, 1922, applying for refund of tax deducted at source or for exemption certificates	Third Income-tax Officer, Non-Residents Refund Circle, Bombay
7	Persons (excluding those who fall under Serial Nos 9, 10 and 12) not resident in the taxable territories claiming double income-tax relief whose total income in the previous three years did not exceed Rs 10,000	Third Income-tax Officer, Non-Residents Refund Circle, Bombay
8	Persons (excluding those who fall under Serial Nos 9, 10 and 12) not resident in the taxable territories whose income does not exceed Rs 10,000 and total income wholly taxed at source or dividends or both	Third Income-tax Officer, Non-Residents Refund Circle, Bombay
9	Persons not resident in the taxable territories assessed through statutory agents under section 43 of the Indian Income-tax Act, 1922, whether their income arises in a single State or in more than one State	Income-tax Officer of the District in which the statutory agent carries on the business by reason of which income-tax is chargeable in his name under section 42 or where he resides, as the case may be
10	Non-resident pensioners not assessed through statutory agents under section 43 who draw their pension in the United Kingdom or in a Colony, from a company or any other private employer who is assessed in India	Income-tax Officer having jurisdiction over the employees of the employer paying pension
11	Foreign associations or companies which are declared by the Central Board of Revenue as a "company" under section 2(*6*)(*ii*) of the Indian Income-tax Act, and whose total income is made up of income wholly taxed at source or dividends or both	Income-tax Officer assessing the respective Indian subsidiaries or Indian concerns through which such non-residents are in receipt of income
12	(*i*) Defence Services Employees under the audit control of the Controller of Defence Accounts (Officers), Poona, and/or the Controller of Defence Accounts (other Ranks), Secunderabad, and the D C M A, Jamnagar, excluding (*a*) Employees, whether civil or military, who are members of or are attached to the Military Accounts Department, and (*b*) Employees who are partners in a firm in the taxable territories or who have income from business carried on in the taxable territories (*ii*) Persons resident outside the taxable territories who at the time of departure from the taxable territories were Defence Services Employees under the audit control of the Controller of Defence Accounts (Officers), Poona (or previously Field Controller of Military Accounts, Poona) or the Controller of Defence Accounts (other Ranks), Secunderabad, and who are not under the audit control of any other audit officer in the taxable territories in respect of accounting periods during which they were Defence Services Employees in Indian payment	Income-tax Officer, General Headquarters, stationed at Poona

Serial No	Persons	Income-tax Officer appointed by the Central Board of Revenue to whom applications for relief should be made
1	2	3
	(iii) Persons being widows or dependents of Defence Service Employees, in the payment of the Controller of Defence Accounts (Officers), Poona (or previously Field Controller of Military Accounts, Poona) or the Controller of Defence Accounts (other Ranks), Secunderabad	
13	Persons (excluding those who fall under Serial No 12) not resident in the taxable territories who do not fall under Serial Nos 1 and 2 and not assessed through statutory agents under section 43 with any income for direct assessment (e g, house property, interest, etc)	The Income-tax Officer of the circle in which arose the greater part of the income for assessment in 1939-40 or in the first year of assessment whichever year is later Provided that the same Officer shall have jurisdiction for subsequent years so long as some income for direct assessment (not necessarily the greater part) continues to arise within his jurisdiction

FORM II

[See rule 7]

Appeal from an order of the Income-tax Officer disallowing a claim for refund under the Income-tax (Double Taxation Relief) (Dominions) Rules, 1956

To

The Appellate Assistant Commissioner of Income-tax
The .. day of 19
The petition of of . post office,
District, sheweth as follows —

Your petitioner applied to the Income-tax Officer for a refund under the Income-tax (Double Taxation Relief) (Dominions) Rules, 1956, of Rs . The Income-tax Officer has by his order, dated the . ... . , of which a copy is attached, rejected the application/granted a refund of only Rs . ... Intimation of this order was received by your petitioner on ..

Your petitioner therefore requests that the order of the Income-tax Officer may be set aside and the refund asked for may be granted

**Signed*

GROUNDS OF APPEAL

Form of verification

I, ., the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief

**Signed*

*The form of appeal and the form of verification appended thereto shall be signed—
(a) in the case of an individual, by the individual himself,
(b) in the case of Hindu undivided family, by the Manager or *karta*,
(c) in the case of a company or local authority, by the principal officer,
(d) in the case of a firm, by a partner, and
(e) in the case of any other association, by a member of the association

SCHEDULE

1	2	3
Kenya	East African Income-tax (Management) Act, 1952	Section 46(4) read with section 45(3)
Tanganyika	East African Income-tax (Management) Act, 1952	Section 46(4) read with section 45(3)
Uganda	East African Income-tax (Management) Act, 1952	Section 46(4) read with section 45(3)
Zanzibar	The Zanzibar Income-tax (Management) Decree, 1952	Section 46(4) read with section 45(3)
Gold Coast	Income-tax Ordinance, 1943, of Gold Coast	Section 31(4)
Nigeria	Income-tax Ordinance, 1943, of Nigeria	Section 32(3)
Sierra Leone	Income-tax Ordinance, 1943, of Sierra Leone	Section 32(4)
Gambia	Gambia Income-tax Ordinance, 1948, of Gambia	Section 29, sub-section (1)(3)
Mauritius	Income-tax Ordinance, 1950, of Mauritius	Section 86(3)

AGREEMENT FOR RELIEF FROM OR AVOIDANCE OF DOUBLE TAXATION BETWEEN INDIA AND CEYLON*

(Notification No. S R O 456, dated 6th February 1957)

In exercise of the powers conferred by section 49A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government hereby directs that all provisions of the annexed Agreement for the avoidance of double taxation of income, profits and gains under the said Act which has been concluded between the Government of India and the Government of Ceylon shall be given effect to in the Union of India

ANNEXURE

Agreement for relief from or the avoidance of double taxation of income between the Government of India and the Government of Ceylon

Whereas the Government of India and the Government of Ceylon desire to conclude an agreement for relief from or the avoidance of double taxation of income chargeable in the two countries in accordance with their respective laws,

Now, therefore, the said two Governments do hereby agree as follows

Article I—The taxes which are the subject of the present Agreement are

(*a*) in India

the taxes imposed by the Indian Income-tax Act, 1922 (XI of 1922),

(*b*) in Ceylon

(*i*) the tax imposed by the Ceylon Profits Tax Act, 1948 (V of 1948),

(*ii*) the tax imposed by the Ceylon Income-tax Ordinance, 1932 (II of 1932), exclusive of the taxes mentioned in sub-clauses (*i*), (*ii*) and (*iii*) of section 45(4)(*b*) of the said Ordinance

The present Agreement shall also apply to taxes that may be levied in India under a Profits Tax Act, similar to the Ceylon Profits Tax Act, 1948 (V of 1948), passed after the date of the present Agreement

Article II—The present Agreement shall come into force on the date on which the last of all such things shall have been done in India and Ceylon as are necessary to give the Agreement the force of law in India and Ceylon respectively, and shall thereupon have effect for the assessment year 1950-51 and subsequent assessment years·

Provided that in respect of the two assessment years 1950-51 and 1951-52, instead of the abatement provided for in Articles III, IV and V of this Agreement, double income-tax relief in respect of incomes taxed both in India and Ceylon shall be computed and allowed as if the provisions of (*i*) the Income-tax (Double Taxation Relief) (Ceylon) Rules, 1942, in India, and (*ii*) section 46 of the Ceylon Income-tax Ordinance, 1932 (II of 1932), in Ceylon, apply

Article III—Each country shall make assessment in the ordinary way under its own laws, and where either country under the operation of its laws charges any income from the sources or categories of transactions specified in column 1 of the Schedule

* S 49A of the 1922 Act corresponds to s 90 of the 1961 Act Under s 297(2)(*k*) of the 1961 Act, this Notification is deemed to have been issued under s 90 of that Act and continues in force accordingly

to this Agreement (hereinafter referred to as the Schedule) in excess of the amount calculated according to the percentages specified in columns II and III thereof, that country shall allow an abatement equal to the lower of the amounts of tax attributable to such excess in either country

Article IV—Where any income accruing or arising outside the two countries is chargeable to tax in both the countries, each country shall allow an abatement equal to one half of the lower amount of tax attributable in either country to such doubly taxed income

Article V—Where at the time of assessment in one country the tax attributable in the other country to the excess or the doubly taxed income referred to in Articles III and IV is not known, the first country shall make a demand without allowing any abatement, but shall hold in abeyance for a period of one year (or such longer period as may be allowed by the Income-tax Officer in his discretion) the collection of a portion of the demand equal to an amount estimated by him to be the abatement likely to be due If the assessee produces a certificate of assessment in the other country within the period of one year or any longer period allowed by the Income-tax Officer, the uncollected portion of the demand shall be adjusted against the abatement allowable under the Agreement, but if no such certificate is produced within the aforesaid period, the abatement shall cease to be operative and the outstanding demand shall be collected forthwith

Article VI—An individual of Indian domicile, who is non-resident in Ceylon, shall be entitled to relief from the Ceylon Government equal to the excess of the Ceylon tax paid by him, by deduction or otherwise, on his Ceylon income for any assessment year over the amount which bears the same proportion to the amount which would be payable by him for that year by way of Ceylon tax if he were resident in Ceylon and chargeable in respect of his total income from all sources, wherever arising, as the amount of such Ceylon income bears to the amount of such total income from all sources

(*a*) in respect of the five assessment years commencing with the assessment year 1950-51, and

(*b*) in respect of any assessment year subsequent to the assessment year 1954-55 provided that during that assessment year the option provided for in the first and second provisos to sub-section (1) of section 17 of the Indian Income-tax Act, 1922, is available to individuals resident in Ceylon in regard to the Indian tax payable by them

Article VII—(1) The taxation authorities of the Contracting Governments shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of the present Agreement Any information so exchanged shall be treated as secret and shall not be disclosed to any person other than those concerned with the assessment and collection of the taxes which are the subject of the present Agreement No information as aforesaid shall be exchanged which would disclose any trade, business, industrial or professional secret or trade process

(2) As used in this article, the term "taxation authorities" means, in the case of India, the Commissioners of Income-tax, the Assistant Commissioners of Income-tax or the Income-tax Officers, in the case of Ceylon, the Commissioner of Income-tax or his authorised representative

Article VIII—(*a*) Nothing in this Agreement shall be construed as modifying or interpreting in any manner the provisions of the relevant taxation laws in force in either country

(*b*) If any question arises in any country as to whether any income falls within any one of the items specified in the Schedule and if so under which item, the question shall be decided without any reference to the treatment of such income in the assessment made by the other country

Article IX—The Schedule to this Agreement may be modified from time to time by agreement between the Governments of the two countries and reference to the Schedule in the foregoing articles shall be read as references to the Schedule as modified

Article X—The present Agreement shall continue in effect indefinitely but either of the Contracting Governments may, on or before the 30th September in any calendar year, give to the other Contracting Government written notice of termination, and in such event the present Agreement shall cease to have effect in relation to assessments for the years of assessment commencing after the said date.

THE SCHEDULE

[See Article III]

Source of income or nature of transaction from which income is derived	Percentage of income which each country is entitled to charge under the Agreement		Remarks
I	II	III	IV
1 (*a*) Salaries including pension paid by employers other than Government	100 per cent by the country in which the salary is earned by service	Nil by the other	
(*b*) Salaries including pension paid by Government	100 per cent by the country which pays the salary	Nil by the other	
2 (*a*) Interest on securities issued by the Central Government or a State Government in India	100 per cent by India	Nil by Ceylon	
(*b*) Interest on securities issued by the Government of Ceylon	100 per cent by Ceylon	Nil by India	
(*c*) Interest on securities other than Government securities	100 per cent by the country in which the local authority or company issuing the securities is situate	Nil by the other	
3 Income from house property	100 per cent by the country in which the property is situated	Nil by the other	
4 Income from profession or vocation	100 per cent by the country in which the services are rendered	Nil by the other	

Source of income or nature of transaction from which income is derived	Percentage of income which each country is entitled to charge under the Agreement		Remarks
I	II	III	IV
5 (*a*) Rent or royalty from lease or hire of property (*b*) Rent or royalty or licence fees or any like consideration arising from rights granted in respect of property (*c*) Rent or royalty or any like consideration arising from any interest in property (*d*) Profits or gains from dealings in property or any interest in property	100 per cent by the country in which the property is situated	Nil by the other	"Property" in sub-items (*a*), (*b*), (*c*) and (*e*) herein shall not include house property referred to in item 3 above
(*e*) Rent or royalty for the use of or for the privilege of using patents, copyrights, goodwill, trade-marks and other like property	100 per cent by the country in which the asset is used	Nil by the other	
(*f*) Interest derived from money lent in one country and utilised by the borrower in the other	100 per cent by the country in which the money is utilised	Nil by the other	
(*g*) Transport by sea or air	100 per cent by the country in which the traffic originates	Nil by the other	
6 (*a*) Goods manufactured or purchased in one country and sold to a buyer in the other country without having a branch or regular agency in the latter country	100 per cent by the country in which the goods are manufactured or purchased	Nil by the other	
(*b*) Goods manufactured by or on behalf of a person in one country and sold by him in the other country through a branch or regular agency	50 per cent by each country	50 per cent by each country	
(*c*) Goods purchased by a merchant in one country and sold through a branch or regular agency in the other country	33⅓ per cent by the country in which the goods are purchased	66⅔ per cent by the other	
(*d*) Goods purchased through a buying establishment in one country and sold by a merchant in the other country	12½ per cent by the country in which the goods are purchased	87½ per cent by the other	

Source of income or nature of transaction from which income is derived	Percentage of income which each country is entitled to charge under the Agreement		Remarks
I	II	III	IV
(*e*) Metal ores, minerals, mineral oils and forest produce extracted in one country and sold to a purchaser in the other without any further manufacturing process and without a branch or regular agency in the latter country.	100 per cent by the country in which minerals are extracted	Nil by the other	
(*f*) As above but sold in the other country through a branch or regular agency in that country	75 per cent by the country in which minerals are extracted	25 per cent by the country in which sales are made	
7 (*a*) Films produced in one country and sold to a purchaser in the other without any further process and without having an agency in the latter country	100 per cent by the country of production	Nil by the other	
(*b*) Films produced in one country and exhibited by the producer in the other country through a regular agency in that country	50 per cent by each country	50 per cent by each country	
(*c*) Films exhibited in one country by distributors (other than producers) in the other country	75 per cent by the country in which they are exhibited	25 per cent by the other	
8 Any income derived from a source or category of transactions not mentioned in any of the foregoing items of the Schedule	100 per cent by the country in which the income actually accrues or arises	Nil by the other	

In faith whereof, the plenipotentiaries of India and Ceylon have signed the present Agreement in Hindi and English languages (the English text shall prevail in case of conflict between the two texts) and have affixed thereto their seals.

Done in duplicate in Colombo on the 10th of September, 1956.

For the Government of India,
B N Chakravarty

For the Government of Ceylon,
Stanley de Zoysa

In the presence of

K. Rangaswami
First Secretary (Commercial),
High Commission for India in Ceylon, Colombo

S F Amerasinghe
Permanent Secretary of the Ministry of Finance

AGREEMENT FOR AVOIDANCE OF DOUBLE TAXATION BETWEEN INDIA AND SWITZERLAND*

(*Notification No G S R 761, dated 29th August 1958*)

In exercise of the powers conferred by section 49A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government hereby directs that all provisions of the annexed Agreement for the avoidance of double taxation of income of enterprises operating aircraft which has been concluded between the Government of India and the Swiss Federal Council shall be given effect to in the Union of India

ANNEXURE

Agreement between the Government of India and the Swiss Federal Council concerning the taxation of enterprises operating aircraft

Whereas the Government of India and the Swiss Federal Council desire to conclude an agreement for avoidance of double taxation of income of enterprises operating aircraft chargeable in the countries in accordance with their respective laws,

Now, therefore, the said two Governments do hereby agree as follows

Article I—The taxes which are the subject of the present Agreement are:

(*a*) in India

the taxes imposed by the Indian Income-tax Act, 1922 (XI of 1922), hereinafter referred to as "Indian tax",

(*b*) in Switzerland

the federal, cantonal and communal taxes on income and profits, hereinafter referred to as "Swiss tax"

Article II—For the purpose of this Agreement, the expression —

(*a*) "the business of air transport" means the business of transporting by air persons, livestock, goods or mail carried on by the owner or hirer or charterer of aircraft,

(*b*) "Indian enterprises" means the Government of India, individuals resident in India and not resident in Switzerland and corporations, partnerships, Hindu undivided families or associations of persons constituted under the laws of and managed and controlled in India, including such corporations in which the Government of India have a share,

(*c*) "Swiss enterprises" means the Swiss Confederation or any canton thereof, individuals resident in Switzerland and not resident in India and corporations or partnerships constituted under the laws of and managed and controlled in Switzerland, including such corporations in which the Swiss Confederation or any canton thereof has a share,

(*d*) the term "India" shall have the same meaning assigned to it in Article 1 of the Constitution of India,

(*e*) the term "Switzerland" means the Swiss Confederation,

*S 49A of the 1922 Act corresponds to s 90 of the 1961 Act Under s 297(2)(*k*) of the 1961 Act, this Notification is deemed to have been issued under s 90 of that Act and continues in force accordingly

(*f*) the term "Federal Decree of 1st October, 1952", means the Federal Decree authorising the Swiss Federal Council to exchange declarations of reciprocity with respect to taxes of enterprises operating ships or aircraft, of 1st October, 1952;

(*g*) the term "internal traffic" shall mean traffic which originates and terminates within Switzerland or within India, respectively.

Article III—(1) All income derived from the business of air transport by Swiss enterprises engaged in such business shall be exempt from Indian tax. This clause shall not, however, apply to income arising as a result of internal traffic in India

(2) By virtue of the Federal Decree of 1st October, 1952, all income derived from the business of air transport by Indian enterprises engaged in such business shall be exempt from Swiss tax This clause shall not, however, apply to income arising as a result of internal traffic in Switzerland

(3) The exemption provided for in paragraphs 1 and 2 above shall also apply to Indian or Swiss enterprises participating in a pooled service, in a joint air transport operating organisation or in an international operating agency

Article IV.—This Agreement shall come into force on the date on which the last of all such things shall have been done in India and Switzerland as are necessary to give the Agreement the force of law in India and Switzerland respectively and shall thereupon have effect

(*a*) in India for any year of assessment beginning on or after the 1st April, 1958,

(*b*) in Switzerland for any taxable year beginning on or after the 1st January, 1957.

Article V—This Agreement shall continue in effect for an indefinite period of time but either of the contracting Governments may, on or before the 30th September in any calendar year, give to the other contracting Government written notice of termination and in such event the Agreement shall cease to have effect

(*a*) in India for any year of assessment beginning on or after the 1st April, immediately following,

(*b*) in Switzerland for any taxable year beginning on or after the 1st January, immediately following.

Done in duplicate at New Delhi, the 28th day of August, one thousand nine hundred and fifty-eight, in the English, Hindi and French languages, all the texts being equally authoritative

Hansjoerg Hess
For the Swiss Federal Council

V. V Chari
For the Government of India

In the presence of

Eric Mentha
Commercial Secretary,
Embassy of Switzerland,
New Delhi

N H. Naqvi
Secretary,
Central Board of Revenue,
New Delhi

AGREEMENT FOR AVOIDANCE OF DOUBLE TAXATION BETWEEN INDIA AND SWEDEN*

(*Notification No G S R 112, dated 23rd January 1959*)

Whereas the annexed Agreement for the avoidance of double taxation of income between the Government of India and the Royal Government of Sweden has been ratified and the instruments of ratification exchanged, as required by Article XX of the said Agreement,

Now, therefore, in exercise of the powers conferred by section 49A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government hereby directs that all provisions of the said Agreement shall be given effect to in the Union of India

ANNEXURE

Agreement between the Government of India and the Royal Government of Sweden for the avoidance of double taxation of income

Whereas the Government of India and the Royal Government of Sweden desire to conclude an agreement for the avoidance of double taxation of income,

Now, therefore, it is hereby agreed as follows

Article I—(1) The taxes which are the subject of the present Agreement are

(*a*) in India

the income-tax,

the super-tax,

the surcharge,

imposed under the Indian Income-tax Act, 1922 (XI of 1922),

(hereinafter referred to as "Indian tax"),

(*b*) in Sweden

(*i*) the State income-tax, including coupon tax,

(*ii*) the tax on companies reducing share-capital (utskiftningsskatten),

(*iii*) the tax on companies on undistributed profits (ersattningsskatten),

(*iv*) the tax on public entertainers (bevillningsavgifterna for sarskild fo-maner onh rattigheter),

(*v*) the communal income-tax (kommunal inkomstskatt), and

(*vi*) the sailors tax (sjomansskatten),

(hereinafter referred to as "Swedish tax")

(2) The present Agreement shall also apply to any other taxes of a substantially similar character imposed in India or Sweden subsequent to the date of signature of the present Agreement

Article II—(1) In the present Agreement, unless the context otherwise requires

(*a*) the terms "one of the territories" and "the other territory" mean Sweden or India as the context requires,

*S 49A of the 1922 Act corresponds to s 90 of the 1961 Act Under s 297(2)(*k*) of the 1961 Act, this Notification is deemed to have been issued under s 90 of that Act and continues in force accordingly

(*b*) the term "person" includes individuals, companies and all other entities which are treated as taxable units under the tax laws in force in the respective territories,

(*c*) the term "company" means any entity which is treated as a body corporate or as a company for tax purposes,

(*d*) the term "tax" means Swedish tax or Indian tax, as the context requires,

(*e*) the terms "resident of Sweden" and "resident of India" mean, respectively, a person who is resident in Sweden for the purposes of Swedish tax and not resident in India for the purposes of Indian tax, and a person who is resident in India for the purposes of Indian tax and not resident in Sweden for the purposes of Swedish tax

a company shall be regarded as resident in Sweden if it is incorporated in Sweden or its business is wholly managed and controlled in Sweden, a company shall be regarded as resident in India if it is incorporated in India or its business is wholly managed and controlled in India,

(*f*) the terms "Swedish enterprise" and "Indian enterprise" mean, respectively, an industrial or commercial enterprise or undertaking carried on by a resident of Sweden and an industrial or commercial enterprise or undertaking carried on by a resident of India, and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean a Swedish enterprise or an Indian enterprise, as the context requires,

(*g*) the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on,

(*aa*) the term "fixed place of business" shall include a place of management, a branch, an office, a factory, a workshop, a warehouse, a mine, quarry or other place of extraction of natural resources,

(*bb*) an enterprise of one of the territories shall be deemed to have a fixed place of business in the other territory if it carries on in that other territory a construction, installation or assembly project or the like,

(*cc*) the use of mere storage facilities or the maintenance of a place of business exclusively for the purchase of goods or merchandise and not for any processing of such goods or merchandise in the territory of purchase, shall not constitute a permanent establishment,

(*dd*) a person acting in one of the territories for or on behalf of an enterprise of the other territory shall be deemed to be a permanent establishment of that enterprise in the first-mentioned territory, but only if

1 he has and habitually exercises in the first-mentioned territory a general authority to negotiate and enter into contracts for or on behalf of the enterprise, unless the activities of the person are limited exclusively to the purchase of goods or merchandise for the enterprise, or

2 he habitually maintains in the first-mentioned territory a stock of goods or merchandise belonging to the enterprise from which the person regularly delivers goods or merchandise for or on behalf of the enterprise, or

3 he habitually secures orders in the first-mentioned territory wholly or almost wholly for the enterprise itself or for the enterprise and other

enterprises which are controlled by it or have a controlling interest in it,

(*ee*) a broker of a genuinely independent status who merely acts as an intermediary between an enterprise of one of the territories and a prospective customer in the other territory shall not be deemed to be a permanent establishment of the enterprise in the last-mentioned territory,

(*ff*) the fact that a company, which is a resident of one of the territories, has a subsidiary company which either is a resident of the other territory or carries on a trade or business in that other territory (whether through a permanent establishment or otherwise) shall not, of itself, constitute that subsidiary company a permanent establishment of its parent company,

(*h*) the term "competent authority" means in the case of India, the Central Government in the Ministry of Finance, Department of Revenue, and in the case of Sweden, the Minister of Finance or his authorised representative.

(2) In the application of the provisions of this Agreement in one of the territories any term not otherwise defined in this Agreement shall, unless the context otherwise requires, have the meaning which it has under the laws in force in that territory relating to the taxes which are the subject of this Agreement

Article III—(1) Tax shall not be levied in one of the territories on the industrial or commercial profits of an enterprise of the other territory unless the profits are derived in the first-mentioned territory through a permanent establishment of the said enterprise situated in the first-mentioned territory If profits are so derived, tax may be levied in the first-mentioned territory on the profits attributable to the said permanent establishment

(2) There shall be attributed to the permanent establishment of an enterprise of one of the territories situated in the other territory the industrial or commercial profits which it might be expected to derive in that other territory if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment

If the information available to the taxation authority concerned is inadequate to determine the profits to be attributed to the permanent establishment, nothing in this paragraph shall affect the application of the law of either territory in relation to the liability of the enterprise to pay tax on an amount determined by the exercise of a discretion or the making of an estimate by the taxation authority of that territory Provided that such discretion shall be exercised or such estimate shall be made, so far as the information available to the taxation authority permits, in accordance with the principle stated in this paragraph

(3) For the purposes of this Agreement the term "industrial or commercial profits" shall not include income in the form of rents, royalties, interest, dividends, management charges, remuneration for labour or personal services or income from the operation of ships or aircraft but shall include rents or royalties in respect of cinematographic films

Article IV—Where an enterprise of one of the territories carries on business with an enterprise of the other territory and it appears to the taxation authorities of the first-mentioned territory that owing to the close connection between such enterprises conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises dealing at arm's length with one another, then any profits which would

but for those conditions have accrued to one of the enterprises but by reason of those conditions have not so accrued may be included in the profits of that enterprise and taxed accordingly In consequence the necessary rectifications should be made concerning the income of the other enterprise

Article V—(1) Income derived from the operation of aircraft by an enterprise of one of the territories shall not be taxed in the other territory, unless the aircraft is operated wholly or mainly between places within that other territory

(2) Paragraph (1) shall likewise apply in respect of participations in pools of any kind by enterprises engaged in air transport

Article VI—(1) When a resident of Sweden, operating ships, derives profits from India through such operations carried on in India, such profits shall be subject to tax in Sweden as well as in India, but the tax so charged in India shall be reduced by an amount equal to two-thirds of the tax so charged, and the reduced amount of Indian tax payable on the profits shall be allowed as a credit against any Swedish tax charged on income accrued to or received by the resident of Sweden during the year in which such reduced Indian tax was paid

(2) When a resident of India, operating ships, derives profits from Sweden through such operations carried on in Sweden, such profits shall be subject to tax in India as well as in Sweden, but the tax so charged in Sweden shall be reduced by an amount equal to two-thirds of the tax so charged, and the reduced amount of Swedish tax payable on the profits shall be allowed as a credit against any Indian tax charged in respect of such income

(3) Paragraphs (1) and (2) shall not apply to profits arising as a result of coastal traffic

Article VII.—Royalties derived by a resident of one of the territories from sources in the other territory may be taxed only in that other territory

In this article, the term "royalty" means any royalty or other like amount received as consideration for the right to use copyrights, artistic or scientific works, patents, models, designs, plans, secret processes or formulae, trade-marks and other like property or rights, but does not include any royalty or other like amount in respect of the operation of mines, quarries or other natural resources, or in respect of cinematographic films

Article VIII—Dividends paid by a company which is a resident of one of the territories to a resident of the other territory may be taxed only in the first-mentioned territory

Article IX—Interest on bonds, securities, notes, debentures or any other form of indebtedness, derived by a resident of one of the territories from sources in the other territory may be taxed only in that other territory.

Article X—Income from immovable property may be taxed only in the territory in which the property is situated For this purpose any rent or royalty or other income derived from the operation of a mine, quarry or any other extraction of natural resources shall be regarded as income from immovable property.

Article XI—Capital gains derived from the sale, exchange or transfer of a capital asset, whether movable or immovable, may be taxed only in the territory in which the capital asset is situated at the time of such sale, exchange or transfer

Article XII—(1) Remuneration other than pensions and annuities, paid in Sweden for services rendered therein, out of public funds of India shall not be taxed in Sweden unless the payment is made to a national of Sweden

(2) Remuneration other than pensions and annuities, paid in India for services rendered therein, out of public funds of Sweden shall not be taxed in India unless the payment is made to a national of India

(3) The provisions of paragraphs (1) and (2) of this article shall not apply to payments in respect of services in connection with any trade or business carried on by either of the Contracting Parties or political sub-divisions thereof for purposes of profit

(4) The provisions of paragraphs (1) and (2) of this article shall also apply to remuneration other than pensions and annuities, paid by the Reserve Bank of India, the Public Railways Authorities and the Postal Administration of India and by Sveriges Riksbank, statens jarnvagar, postverket and televerket

Article XIII—Any pension or annuity derived by a resident of one of the territories from sources in the other territory may be taxed only in that other territory

In this article the term "pension" means a periodic payment made in consideration of services rendered or by way of compensation for injuries received and the term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth

Article XIV—(1) Profits or remuneration for professional services or for services as an employee (including services as a director) performed in one of the territories by an individual who is a resident of the other territory may be taxed only in the territory in which such services are performed

(2) An individual who is a resident of India shall not be taxed in Sweden on profits or remuneration referred to in paragraph (1), if

(*a*) he is temporarily present in Sweden for a period or periods not exceeding in the aggregate 183 days during the relevant calendar year,

(*b*) the services are performed for or on behalf of a resident of India,

(*c*) the profits or remuneration are subject to Indian tax, and

(*d*) the profits or remuneration are not deducted in computing the profits of an enterprise chargeable to Swedish tax

(3) An individual who is a resident of Sweden shall not be taxed in India on the profits or remuneration referred to in paragraph (1), if

(*a*) he is temporarily present in India for a period or periods not exceeding in the aggregate 183 days during the relevant previous year,

(*b*) the services are performed for or on behalf of a resident of Sweden,

(*c*) the profits or remuneration are subject to Swedish tax, and

(*d*) the profits or remuneration are not deducted in computing the profits of an enterprise chargeable to Indian tax

(4) Where an individual permanently or predominantly performs services on ships or aircraft operated by an enterprise of one of the territories such services shall be deemed to be performed in that territory.

Article XV—A professor or teacher from one of the territories, who receives remuneration for teaching, during the period of temporary residence not exceeding two years, at a university, college, school or other educational institution in the other territory, shall not be taxed in that other territory in respect of that remuneration

Article XVI—(1) An individual from one of the territories who is temporarily present in the other territory solely

(*a*) as a student at a university, college or school in that other territory,

(*b*) as a business apprentice, or

(*c*) as the recipient of a grant, allowance or award for the primary purpose of study or research from a religious, charitable, scientific or educational organisation

shall not be taxed in that other territory in respect of remittances from abroad for the purposes of his maintenance, education or training, or in respect of a scholarship.

(2) An individual from one of the territories who is present in the other territory solely as a student at a university, college or school in that other territory or as a business apprentice, shall not be taxed in that other territory for a period not exceeding three consecutive years of assessment in respect of remuneration from employment in such other territory, provided that

(*a*) the remuneration constitutes earnings necessary for his maintenance and education, and

(*b*) the said remuneration does not exceed 4,000 Swedish crowns in the year of assessment or the equivalent thereof in the currency of India, as the case may be

Article XVII—(1) The laws in force in either of the territories will continue to govern the assessment and taxation of income in the respective territories except where express provision to the contrary is made in this Agreement

(2) Subject to the provision of Article VI, income from sources within Sweden which under the laws of Sweden and in accordance with this Agreement is subject to tax in Sweden either directly or by deduction shall not be subject to Indian tax

(3) Subject to the provision of Article VI, income from sources within India which under the laws of India and in accordance with this Agreement is subject to tax in India either directly or by deduction shall not be subject to Swedish tax

(4) The graduated rate of Swedish tax to be imposed on residents of Sweden and the graduated rate of Indian tax to be imposed on residents of India may be calculated as though income which under this Agreement is not subjected to Swedish or Indian tax as the case may be, were included in the amount of the total income

Article XVIII—The competent authorities shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of the present Agreement Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of the present Agreement No information as aforesaid shall be exchanged by the competent authority of one of the territories which would disclose any trade, business, industrial or professional secret or any trade process to the authority of the other territory

Article XIX—Where a resident of one of the territories shows proof that the action of the taxation authorities of the other territory has resulted or will result in double taxation contrary to the provisions of the present Agreement, he shall be entitled to present his case to the competent authority of the territory of which he is a resident Should the competent authority be satisfied that the claim ought to be pursued further, the competent authority shall endeavour to come to an agreement with the competent authority of the other territory with a view to avoiding double taxation

Article XX—(1) The present Agreement shall be ratified by the Contracting Parties. Ratification by His Majesty the King of Sweden shall be subject to the consent of the Riksdag.

(2) The instruments of ratification shall be exchanged at New Delhi as soon as possible.

(3) Upon exchange of the instruments of ratification, the present Agreement shall have effect—

(*a*) in India, for any year of assessment, beginning on or after the 1st April, 1959,

(*b*) in Sweden·

as respects the State income-tax and the communal income-tax on income which is assessed in or after the calendar year beginning on 1st January, 1959, being income for which preliminary tax is payable during the period 1st March, 1958, to 28th February, 1959, or any succeeding period,

as respects coupon tax on dividends payable on or after 1st January, 1959;

as respects the tax on public entertainers which is levied on or after 1st January, 1958,

as respects sailors tax on income payable on or after 1st January, 1958, and

as respects the other Swedish taxes which are levied on or after 1st January, 1959

Article XXI—This Agreement shall continue in effect indefinitely but either of the Contracting Parties may on or before the 30th day of June in any calendar year after 1961 give to the other Contracting Party notice of termination, and in such event this Agreement shall cease to be effective—

(*a*) in India, for any year of assessment beginning on or after the 1st April in the second calendar year following such written notice of termination,

(*b*) in Sweden

as respects the State income-tax and the communal income-tax on income for which preliminary tax is payable after the last day of February in the calendar year next following that in which the notice is given,

as respects coupon tax on dividends payable on or after 1st January in the calendar year next following that in which the notice is given,

as respects the tax on public entertainers which is levied on or after 1st January in the calendar year next following that in which the notice is given,

as respects sailors tax on income payable on or after 1st January in the calendar year next following that in which the notice is given, and

as respects the other Swedish taxes which are levied in or after the second calendar year following that in which the notice is given.

In witness whereof the undersigned duly authorised thereto have signed this Agreement and have affixed thereto their seals.

Done in duplicate at Stockholm on July 30th, 1958, in the English language

For the Government of India,	For the Royal Government of Sweden,
I S Chopra	Osten Unden

AGREEMENT FOR AVOIDANCE OF DOUBLE TAXATION BETWEEN INDIA AND DENMARK*

(Notification No. G S. R. 316, dated 9th March 1960)

Whereas the annexed Agreement for the avoidance of double taxation of income between the Governments of India and Denmark has been ratified and the instruments of ratification exchanged, as required by Article XX of the said Agreement,

Now, therefore, in exercise of the powers conferred by section 49A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government hereby directs that all provisions of the said Agreement shall be given effect to in the Union of India.

ANNEXURE

Agreement between the Governments of India and Denmark for the avoidance of double taxation of income

Whereas the Governments of India and Denmark desire to conclude an agreement for the avoidance of double taxation of income;

Now, therefore, it is hereby agreed as follows

Article I—(1) The taxes which are the subject of the present Agreement are

(*a*) in India

the income-tax,
the super-tax,
the surcharge,

imposed under the Indian Income-tax Act, 1922 (XI of 1922),
(hereinafter referred to as "Indian tax"),

(*b*) in Denmark

national income taxes and
communal income taxes,

(hereinafter referred to as "Danish tax")

(2) The present Agreement shall also apply to any other taxes of a substantially similar character imposed in India or Denmark subsequent to the date of signature of the present Agreement

Article II—(1) In the present Agreement, unless the context otherwise requires

(*a*) the term "Denmark" means the kingdom of Denmark excluding the Faroe Islands and Greenland,

(*b*) the terms "one of the territories" and "the other territory" mean Denmark or India as the context requires;

(*c*) the term "person" includes natural persons, companies and all other entities which are treated as taxable units under the tax laws in force in the respective territories;

(*d*) the term "company" means any entity which is treated as a body corporate or as a company for tax purposes;

(*e*) the term "tax" means the Danish tax or Indian tax, as the context requires,

*S 49A of the 1922 Act corresponds to s 90 of the 1961 Act Under s 297(2)(*k*) of the 1961 Act, this Notification is deemed to have been issued under s 90 of that Act and continues in force accordingly

(*f*) the terms "resident of Denmark" and "resident of India" mean, respectively, a person who is resident in Denmark for the purposes of Danish tax and not resident in India for the purposes of Indian tax, and a person who is resident in India for the purposes of Indian tax and not resident in Denmark for the purposes of Danish tax

a company shall be regarded as resident in Denmark if it is incorporated in Denmark or its business is wholly managed and controlled in Denmark, a company shall be regarded as resident in India if it is incorporated in India or its business is wholly managed and controlled in India,

(*g*) the terms "Danish enterprise" and "Indian enterprise" mean, respectively, an industrial or commercial enterprise or undertaking carried on by a resident of Denmark and an industrial or commercial enterprise or undertaking carried on by a resident of India, and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean a Danish enterprise or an Indian enterprise, as the context requires,

(*h*) the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on,

(*aa*) the term "fixed place of business" shall include a place of management, a branch, an office, a factory, a workshop, a warehouse and a mine, quarry or other place of extraction of natural resources,

(*bb*) an enterprise of one of the territories shall be deemed to have a fixed place of business in the other territory if it carries on in that other territory a construction, installation or assembly project or the like,

(*cc*) the use of mere storage facilities or the maintenance of a place of business exclusively for the purchase of goods or merchandise and not for any processing of such goods or merchandise in the territory of purchase, shall not constitute a permanent establishment,

(*dd*) a person acting in one of the territories for or on behalf of an enterprise of the other territory shall be deemed to be a permanent establishment in the first-mentioned territory, if

1 he has and habitually exercises in the first-mentioned territory a general authority to negotiate and enter into contracts for or on behalf of the enterprise, unless the activities of the person are limited exclusively to the purchase of goods or merchandise for the enterprise, or

2 he habitually maintains in the first-mentioned territory a stock of goods or merchandise belonging to the enterprise from which the person regularly delivers goods or merchandise for or on behalf of the enterprise, or

3 he habitually secures orders in the first-mentioned territory wholly or almost wholly for the enterprise itself, or for the enterprise and other enterprises which are controlled by it or have a controlling interest in it,

(*ee*) a broker of a genuinely independent status who merely acts as an intermediary between an enterprise of one of the territories and a prospective customer in the other territory shall not be deemed to be a permanent establishment in that other territory where such activities do not involve securing of orders within the meaning of sub-paragraph (*dd*) 3 above,

(*ff*) the fact that a company, which is a resident of one of the territories, has a subsidiary company which either is a resident of the other territory or carries on a trade or business in that other territory whether through a

permanent establishment or otherwise shall not, of itself, constitute that subsidiary company a permanent establishment of its parent company;

(i) the term "competent authority" means in the case of India, the Central Government in the Ministry of Finance, Department of Revenue, or its authorised representative, and in the case of Denmark, the Minister of Finance or his authorised representative

(2) In the application of the provisions of this Agreement in one of the territories any term not otherwise defined in this Agreement shall, unless the context otherwise requires, have the meaning which it has under the laws in force in that territory relating to the taxes which are the subject of this Agreement.

Article III—(1) Subject to the provisions of paragraph (3) below, tax shall not be levied in one of the territories on the industrial or commercial profits of an enterprise of the other territory unless profits are derived in the first-mentioned territory through a permanent establishment of the said enterprise situated in the first-mentioned territory If profits are so derived, tax may be levied in the first-mentioned territory on the profits attributable to the said permanent establishment

(2) There shall be attributed to the permanent establishment of an enterprise of one of the territories situated in the other territory the industrial or commercial profits which it might be expected to derive in that other territory if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment In any case, where the correct amount of profits attributable to a permanent establishment is incapable of determination or the ascertainment thereof presents exceptional difficulties, the profits attributable to the establishment may be estimated on a reasonable basis

(3) For the purposes of this Agreement the term "industrial or commercial profits" shall not include income in the form of rents, royalties, interest, dividends, management charges, remuneration for labour or personal services or income from the operation of ships or aircraft but shall include rents or royalties in respect of cinematographic films

Article IV—Where—

(*a*) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory, or

(*b*) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory,

and in either case conditions are made or imposed between the two enterprises, in their commercial or financial relations, which differ from those which would be made between independent enterprises, then any profits which but for those conditions would have accrued to one of the enterprises but by reason of those conditions have not so accrued may be included in the profits of that enterprise and taxed accordingly.

Article V—(1) Income derived from the operation of aircraft by an enterprise of one of the territories shall not be taxed in the other territory, unless the aircraft is operated wholly or mainly between places within that other territory.

(2) Paragraph (1) shall likewise apply in respect of participations in pools of any kind by enterprises engaged in air transport

Article VI—(1) When a resident of Denmark, operating ships, derives profits from India through such operations carried on in India, such profits shall be subject to tax in Denmark as well as in India, but the tax so charged in India shall be reduced by an amount equal to fifty per cent thereof, and the reduced amount of Indian tax payable on the profits shall be allowed as a credit against Danish tax charged in respect of such income

AGREEMENT FOR AVOIDANCE OF DOUBLE TAXATION BETWEEN INDIA AND FINLAND*

(*Notification No G S R 41, dated 29th December 1961*)

Whereas the annexed Agreement for the avoidance of double taxation of income between the Government of India and the Government of the Republic of Finland has been ratified and the instruments of ratification exchanged, as required by Article XXI of the said Agreement,

Now, therefore, in exercise of the powers conferred by section 49A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government hereby directs that all provisions of the said Agreement shall be given effect to in the Union of India

ANNEXURE

Agreement between the Government of India and the Government of the Republic of Finland for the avoidance of double taxation of income

Whereas the Government of India and the Government of the Republic of Finland desire to conclude an agreement for the avoidance of double taxation of income,

Now, therefore, it is hereby agreed as follows

Article I—(1) The taxes which are the subject of the present Agreement are

(*a*) in India

the income-tax,
the super-tax,
the surcharge,

imposed under the Indian Income-tax Act, 1922 (XI of 1922), (hereinafter referred to as "Indian tax"),

(*b*) in Finland

the State income-tax,
the communal tax,
the church tax,

(hereinafter referred to as "Finnish tax")

(2) The present Agreement shall also apply to any other taxes of a substantially similar character imposed in India or Finland subsequent to the date of signature of the present Agreement

Article II—(1) In the present Agreement, unless the context otherwise requires.

(*a*) the terms "one of the territories" and "the other territory" mean India or Finland as the context requires,

(*b*) the term "person" includes individuals, companies and all other entities which are treated as taxable units under the tax laws in force in the respective territories;

(*c*) the term "company" means any entity which is treated as a body corporate or as a company for tax purposes,

*S 49A of the 1922 Act corresponds to s 90 of the 1961 Act Under s 297(2)(*k*) of the 1961 Act, this Notification is deemed to have been issued under s 90 of that Act and continues in force accordingly

(*d*) the term "tax" means Indian tax or Finnish tax, as the context requires,

(*e*) the terms "resident of India" and "resident of Finland" mean, respectively, a person who is resident in India for the purposes of Indian tax and not resident in Finland for the purposes of Finnish tax, and a person who is resident in Finland for the purposes of Finnish tax and not resident in India for the purposes of Indian tax

a company shall be regarded as resident in India if it is incorporated in India or its business is wholly managed and controlled in India, a company shall be regarded as resident in Finland if it is incorporated in Finland or its business is wholly managed and controlled in Finland,

(*f*) the terms "Indian enterprise" and "Finnish enterprise" mean, respectively, an industrial or commercial enterprise or undertaking carried on by a resident of India and an industrial or commercial enterprise or undertaking carried on by a resident of Finland; and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean an Indian enterprise or a Finnish enterprise, as the context requires,

(*g*) the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on;

(*aa*) the term "fixed place of business" shall include a place of management, a branch, an office, a factory, a workshop, a warehouse, a mine, quarry or other place of extraction of natural resources,

(*bb*) an enterprise of one of the territories shall be deemed to have a fixed place of business in the other territory if it carries on in that other territory a construction, installation or assembly project or the like,

(*cc*) the use of mere storage facilities or the maintenance of a place of business exclusively for the purchase of goods or merchandise and not for any processing of such goods or merchandise in the territory of purchase, shall not constitute a permanent establishment,

(*dd*) a person acting in one of the territories for or on behalf of an enterprise of the other territory shall be deemed to be a permanent establishment of that enterprise in the first-mentioned territory, but only if

1 he has and habitually exercises in the first-mentioned territory a general authority to negotiate and enter into contracts for or on behalf of the enterprise, unless the activities of the person are limited exclusively to the purchase of goods or merchandise for the enterprise, or

2 he habitually maintains in the first-mentioned territory a stock of goods or merchandise belonging to the enterprise from which the person regularly delivers goods or merchandise for or on behalf of the enterprise, or

3 he habitually secures orders in the first-mentioned territory wholly or almost wholly for the enterprise itself or for the enterprise and other enterprises which are controlled by it or have a controlling interest in it

a person from one of the territories who is present in the other territory for not more than three months in the income year or the previous year, as the case may be, for the purpose of securing orders shall not be deemed to be habitually securing orders within the meaning of this sub-paragraph,

(ee) a bona fide broker of a genuinely independent status who merely acts as an intermediary between an enterprise of one of the territories and a prospective customer in the other territory shall not be deemed to be a permanent establishment of the enterprise in the last-mentioned territory,

(ff) the fact that a company, which is a resident of one of the territories, has a subsidiary company which either is a resident of the other territory or carries on a trade or business in that other territory (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of its parent company,

(h) the term "competent authority" means, in the case of India, the Central Government in the Ministry of Finance, Department of Revenue, and, in the case of Finland, the Ministry of Finance

(2) In the application of the provisions of this Agreement in one of the territories any term not otherwise defined in this Agreement shall, unless the context otherwise requires, have the meaning which it has under the laws in force in that territory relating to the taxes which are the subject of this Agreement

Article III—(1) Tax shall not be levied in one of the territories on the industrial or commercial profits of an enterprise of the other territory unless the profits are derived in the first-mentioned territory through a permanent establishment of the said enterprise situated in the first-mentioned territory If profits are so derived, tax may be levied in the first-mentioned territory on the profits attributable to the said permanent establishment

(2) There shall be attributed to the permanent establishment of an enterprise of one of the territories situated in the other territory the industrial or commercial profits which it might be expected to derive in that other territory if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment

In any case, where the correct amount of profits attributable to a permanent establishment is incapable of determination or the ascertainment thereof presents exceptional difficulties, the profits attributable to the establishment may be estimated on a reasonable basis

In determining the industrial or commercial profits of a permanent establishment, there shall be allowed as deductions all expenses, wherever incurred, reasonably allocable to such permanent establishment, including executive and general administrative expenses so allocable

(3) The term "industrial or commercial profits" shall not include income in the form of rents, royalties, including rents or royalties for cinematographic films, fees for technical services, interest, dividends, capital gains, management charges, remuneration for labour or personal services or income from the operation of ships or aircraft

Article IV—Where an enterprise of one of the territories carries on business with an enterprise of the other territory, and it appears to the taxation authorities of the first-mentioned territory that owing to the close connection between such enterprises conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises dealing at arm's length with one another, then any profits which would but for those conditions have accrued to one of the enterprises but by reason of those

conditions have not so accrued may be included in the profits of that enterprise and taxed accordingly In consequence the necessary rectifications shall be made concerning the income of the other enterprise

Article V—(1) Income derived from the operation of aircraft by an enterprise of one of the territories shall not be taxed in the other territory, unless the aircraft is operated wholly or mainly between places within that other territory.

(2) Paragraph (1) shall likewise apply in respect of participations in pools of any kind by enterprises engaged in air transport

Article VI—(1) When a resident of India, operating ships, derives profits from Finland through such operations carried on in Finland, such profits shall be subject to tax in India as well as in Finland, but the tax so charged in Finland shall be reduced by an amount equal to fifty per cent of the tax so charged, and the reduced amount of Finnish tax payable on the profits shall be allowed as a credit against any Indian tax charged in respect of such income

(2) When a resident of Finland, operating ships, derives profits from India through such operations carried on in India, such profits shall be subject to tax in Finland as well as in India, but the tax so charged in India shall be reduced by an amount equal to fifty per cent of the tax so charged, and the reduced amount of Indian tax payable on the profits shall be allowed as a credit against any Finnish tax charged on income accrued to or received by the resident of Finland during the year in which such reduced Indian tax was paid

(3) Paragraphs (1) and (2) shall not apply to profits arising as a result of coastal traffic

(4) This article shall not, in the case of India, affect the provisions of sections 44A and 44B of the Indian Income-tax Act, 1922, relating to the assessment of profits from occasional shipping or tramp steamers When an adjustment is to be made under section 44C of the Indian Income-tax Act, 1922, in the case of occasional shipping or tramp steamers, the provisions of paragraph (2) will apply

Article VII—(1) Royalties derived by a resident of one of the territories from sources in the other territory may be taxed only in that other territory

(2) In this article, the term "royalty" means any royalty or other like amount received as consideration for the right to use copyrights, artistic or scientific works, cinematographic films, patents, models, designs, plans, secret processes or formulae, trade-marks and other like property or rights, but does not include any royalty or other like amount in respect of the operation of mines, quarries or other natural resources

Article VIII—Amounts paid by an enterprise of one of the territories for technical services furnished by an enterprise of the other territory shall not be subject to tax by the first-mentioned territory except in so far as such amounts are attributable to activities actually performed in the first-mentioned territory. In computing the income so subject to tax, there shall be allowed as deductions the expenses incurred in the first-mentioned territory in connection with the activities performed in that territory

Article IX—Dividends paid by a company which is a resident of one of the territories to a resident of the other territory may be taxed only in the first-mentioned territory

Article X—Interest on bonds, securities, notes, debentures or any other form of indebtedness, derived by a resident of one of the territories from sources in the other territory may be taxed only in that other territory

Article XI—Income from immovable property may be taxed only in the territory in which the property is situated For this purpose any rent or royalty or other income derived from the operation of a mine, quarry or any other extraction of natural resources shall be regarded as income from immovable property

Article XII—Capital gains derived from the sale, exchange or transfer of a capital asset, whether movable or immovable, may be taxed only in the territory in which the capital asset is situated at the time of such sale, exchange or transfer For this purpose, the situs of the shares of a company shall be deemed to be in the territory where the company is incorporated

Article XIII—(1) Remuneration other than pensions and annuities paid in India for services rendered therein out of public funds of Finland shall not be taxed in India unless the payment is made to a national of India

(2) Remuneration other than pensions and annuities paid in Finland for services rendered therein out of public funds of India shall not be taxed in Finland unless the payment is made to a national of Finland

(3) The provisions of paragraphs (1) and (2) of this article shall not apply to payments in respect of services in connection with any trade or business carried on by either of the Contracting Parties or political sub-divisions thereof for purposes of profit

(4) The provisions of paragraphs (1) and (2) of this article shall also apply to remuneration other than pensions and annuities, paid by the Reserve Bank of India, the Public Railway Authorities and the Postal Administration of India and by Suomen Pankki, Valtion Rautatiet, Posti-ja Lennatinhallitus and Kansanelakelaitos (Bank of Finland, State Railways, Post and Telegraph Administration and National Pension Administration)

Article XIV—Any pension or annuity derived by a resident of one of the territories from sources in the other territory may be taxed only in that other territory

In this article the term "pension" means a periodic payment made in consideration of services rendered or by way of compensation for injuries received and the term "annuity" means a stated sum payable periodically at stated times, during life or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth

Article XV—(1) Profits or remuneration for professional services or for services as an employee (including services as a director) performed in one of the territories by an individual who is a resident of the other territory may be taxed in the territory in which such services are performed

(2) Notwithstanding anything contained in paragraph (1), an individual who is a resident of India shall not be taxed in Finland on remuneration for personal services, if

(*a*) he is temporarily present in Finland for a period or periods not exceeding in the aggregate 183 days during the relevant income year, and

(*b*) the services are rendered for or on behalf of a resident of India, or for or on behalf of a permanent establishment in India, of a Finnish enterprise, and

(*c*) the remuneration as such is not deducted in computing the profits of an enterprise subject to Finnish tax

(3) Notwithstanding anything contained in paragraph (1), an individual who is a resident of Finland shall not be taxed in India on remuneration for personal services, if

(a) he is temporarily present in India for a period or periods not exceeding in the aggregate 183 days during the relevant "previous year", and

(b) the services are rendered for or on behalf of a resident of Finland or for or on behalf of a permanent establishment in Finland of an Indian enterprise, and

(c) the remuneration as such is not deducted in computing the profits of an enterprise chargeable to Indian tax.

(4) Where an individual permanently or predominantly performs services on ships or aircraft operated by an enterprise of one of the territories such services shall be deemed to be performed in that territory

Article XVI—A professor or teacher from one of the territories, who receives remuneration for teaching, during a period of temporary residence not exceeding two years, at a university, college, school or other educational institution in the other territory, shall not be taxed in that other territory in respect of that remuneration.

Article XVII—An individual from one of the territories who is temporarily present in the other territory solely

(a) as a student at a university, college or school in that other territory,

(b) as a business or trade apprentice, or

(c) as the recipient of a grant, allowance or award from a religious, charitable, scientific or educational organisation for the primary purposes of study or research,

shall not be taxed in that other territory in respect of remittances from abroad for the purposes of his maintenance, education or training, or in respect of a scholarship.

Article XVIII—(1) The laws in force in either of the territories will continue to govern the assessment and taxation of income in the respective territories except where express provision to the contrary is made in this Agreement

(2) Subject to the provision of Article VI, income from sources within India which under the laws of India and in accordance with this Agreement is subject to tax in India either directly or by deduction shall not be subject to Finnish tax

(3) Subject to the provision of Article VI, income from sources within Finland which under the laws of Finland and in accordance with this Agreement is subject to tax in Finland either directly or by deduction shall not be subject to Indian tax

(4) The rate of Indian tax to be imposed on residents of India, as well as the rate of Finnish tax to be imposed on residents of Finland may be calculated taking also into account the income of the person subject to taxation, which, according to this Agreement, is subject to tax in the other territory

Article XIX.—The competent authorities shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of the present Agreement Any information so exchanged shall be treated secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of the present Agreement No information as aforesaid shall be exchanged by the competent authority of one of the

territories which would disclose any trade, business, industrial or professional secret or any trade process to the authority of the other territory

Article XX—Where a resident of one of the territories shows proof that the action of the taxation authorities of the other territory has resulted or will result in double taxation contrary to the provisions of the present Agreement, he shall be entitled to present his case to the competent authority of the territory of which he is a resident Should the competent authority be satisfied that the claim ought to be pursued further, the competent authority shall endeavour to come to an agreement with the competent authority of the other territory with a view to avoiding double taxation

Article XXI—(1) The present Agreement shall be ratified by the Contracting Parties according to their own internal legislation

(2) The instruments of ratification shall be exchanged at Helsinki as soon as possible

(3) Upon exchange of the instruments of ratification, the present Agreement shall have effect—

(*a*) in India, in respect of taxes for assessment years beginning on or after the 1st April of the year in which the exchange of instruments of ratification takes place,

(*b*) in Finland, in respect of taxes for income years beginning on or after the 1st January of the calendar year preceding that in which the exchange of instruments of ratification takes place

Article XXII—This Agreement shall continue in effect indefinitely but either of the Contracting Parties may on or before the 30th of June in any calendar year following the calendar year in which the exchange of instruments of ratification takes place give to the other Contracting Party notice of termination and in such event this Agreement shall cease to have effect—

(*a*) in India, in respect of taxes for the assessment years beginning on or after the 1st April of the second calendar year following that in which the notice is given,

(*b*) in Finland, in respect of taxes for income years beginning on or after the 1st January of the calendar year next following that in which the notice is given

In witness whereof the undersigned duly authorised thereto have signed this Agreement

Done in duplicate at New Delhi on the 23rd June, 1961, in the English language

For the Government of the Republic of Finland,

Kai Somerto
Charge d'Affaires a i of Finland

For the Government of India,

Smt Tarkeshwari Sinha
Deputy Minister of Finance

CONVENTION FOR AVOIDANCE OF DOUBLE TAXATION BETWEEN INDIA AND AUSTRIA

(Notification No G S R 588, dated 5th April 1965)

Whereas the annexed Convention between the Republic of India and the Republic of Austria for the avoidance of double taxation with respect to taxes on income has been ratified and the instruments of ratification exchanged, as required by Article XXI of the said Convention

Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (XLIII of 1961), the Central Government hereby directs that all provisions of the said Convention shall be given effect to in the Union of India

ANNEXURE

Convention between the Republic of India and the Republic of Austria for the avoidance of double taxation with respect to taxes on income

The Republic of India and the Republic of Austria, desiring to conclude a convention for the avoidance of double taxation with respect to taxes on income,

Have agreed as follows

Article I—(1) The taxes which are the subject of the present Convention are

(*a*) in Austria

(*i*) the Einkommensteuer (income-tax),

(*ii*) the Korperschaftsteuer (corporation tax),

(*iii*) the Beitrag vom Einkommen zur Forderung des Wohnbaues und fur Zwecke des Familienlasten-ausgleiches (contribution from income for the promotion of residential building and for the equalisation of family burdens),

(hereinafter referred to as "Austrian tax"),

(*b*) in India

(*i*) the income-tax,

(*ii*) the super-tax and

(*iii*) the surcharge

imposed under the Income-tax Act, 1961 (XLIII of 1961),

(hereinafter referred to as "Indian tax")

(2) The present Convention shall also apply to any other taxes of a substantially similar character imposed in Austria or in India subsequently to the date of signature of the present Convention

Article II—(1) In the present Convention, unless the context otherwise requires

(*a*) the terms "one of the territories" and "the other territory" mean Austria or India as the context requires,

(*b*) the term "person" includes individuals, companies and all other entities which are treated as taxable units under the tax laws in force in the respective territories,

(*c*) the term "company" means any entity which is treated as a body corporate under the Austrian law or as a company under the Indian law for tax purposes,

(*d*) the term "tax" means Austrian tax or Indian tax, as the context requires,

(*e*) the terms "resident of Austria" and "resident of India" mean, respectively, a person who is resident ("Wohnsitz" or "gewohnlicher Aufenthalt") in Austria for the purposes of Austrian tax and not resident in India for the purposes of Indian tax, and a person who is resident in India for the purposes of Indian tax and not resident ("Wohnsitz" or "gewohnlicher Aufenthalt") in Austria for the purposes of Austrian tax

a company shall be regarded as resident in Austria if it is incorporated in Austria or its business is wholly managed and controlled in Austria, a company shall be regarded as resident in India if it is incorporated in India or its business is wholly managed and controlled in India,

(*f*) the terms "Austrian enterprise" and "Indian enterprise" mean, respectively, an industrial or commercial enterprise or undertaking carried on by a resident of Austria and an industrial or commercial enterprise or undertaking carried on by a resident of India, and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean an Austrian enterprise or an Indian enterprise, as the context requires,

(*g*) the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on,

(*aa*) the term "permanent establishment" shall include a place of management, a branch, an office, a factory, a workshop, a warehouse, a mine, quarry or other place of extraction of natural resources, and a permanent sales exhibition,

(*bb*) an enterprise of one of the territories shall be deemed to have a permanent establishment in the other territory if it carries on in that other territory a construction, installation or assembly project or the like,

(*cc*) the use of mere storage facilities or the maintenance of a place of business exclusively for the purchase of goods or merchandise and not for any processing of such goods or merchandise in the territory of purchase, shall not constitute a permanent establishment,

(*dd*) a person acting in one of the territories for or on behalf of an enterprise of the other territory shall be deemed to be a permanent establishment of that enterprise in the first-mentioned territory, if—

1 he has and habitually exercises in the first-mentioned territory a general authority to negotiate and enter into contracts for or on behalf of the enterprise, unless the activities of the person are limited exclusively to the purchase of goods or merchandise for the enterprise, or

2 he habitually maintains in the first-mentioned territory a stock of goods or merchandise belonging to the enterprise from which the person regularly delivers goods or merchandise for or on behalf of the enterprise, or

3 he habitually secures orders in the first-mentioned territory exclusively or almost exclusively, for the enterprise itself, or for the enterprise and other enterprises which are controlled by it or have a controlling interest in it,

(*ee*) a broker of a genuinely independent status who merely acts as an intermediary between an enterprise of one of the territories and a prospective customer in the other territory shall not be deemed to be a permanent establishment of the enterprise in the last-mentioned territory;

(*ff*) the fact that a company, which is a resident of one of the territories, has a subsidiary company which either is a resident of the other territory or carries on a trade or business in that other territory (whether through a permanent establishment or otherwise) shall not, of itself, constitute that subsidiary company a permanent establishment of its parent company;

(*h*) the term "competent authority" means, in the case of Austria, the Federal Ministry of Finance and, in the case of India, the Central Government in the Ministry of Finance, Department of Revenue

(2) In the application of the provisions of this Convention in one of the territories any term not otherwise defined in this Convention shall, unless the context otherwise requires, have the meaning which it has under the laws in force in that territory relating to the taxes which are the subject of this Convention

Article III—(1) Subject to the provisions of paragraph (3) below, tax shall not be levied in one of the territories on the industrial or commercial profits of an enterprise of the other territory unless profits are derived in the first-mentioned territory through a permanent establishment of the said enterprise situated in the first-mentioned territory If profits are so derived, tax may be levied in the first-mentioned territory on the profits attributable to the said permanent establishment

(2) There shall be attributed to the permanent establishment of an enterprise of one of the territories situated in the other territory the industrial or commercial profits which it might be expected to derive in that other territory if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment In any case, where the ascertainment of the correct amount of profits attributable to a permanent establishment presents exceptional difficulties, the profits attributable to the permanent establishment may be estimated on a reasonable basis

(3) The provisions of paragraph (1) of this article shall not be construed as preventing the taxation in one of the territories in pursuance of the present Convention and in conformity with the laws of that territory of income (*e g*, dividends, interest, capital gains, fees for technical services, income from the operation of aircraft, rents or royalties or income from immovable property) derived from sources therein by a resident of the other territory even if such income is not attributable to a permanent establishment situated in that former territory

Article IV—Where—

(*a*) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory, or

(*b*) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory,

and in either case conditions are made or imposed between the two enterprises, in their commercial or financial relations, which differ from those which would be made between independent enterprises, then any profits which but for those conditions would have accrued to one of the enterprises but by reason of those conditions have not so accrued may be included in the profits of that enterprise and taxed accordingly

Article V.—(1) Income derived from the operation of aircraft by an enterprise of one of the territories shall not be taxed in the other territory, unless the aircraft is operated wholly or mainly between places within that other territory

(2) Paragraph (1) shall likewise apply in respect of participations in pools of any kind by enterprises engaged in air transport

(3) Income derived from the operation of aircraft by an Indian enterprise shall likewise not be subjected to business tax (Gewerbesteuer) in Austria

Article VI—(1) Royalties derived by a resident of one of the territories from sources in the other territory may be taxed only in that other territory

(2) In this article, the term "royalty" means any royalty or other like amount received as consideration for the right to use copyrights, artistic or scientific works, cinematographic films, patents, models, designs, plans, secret processes or formulae, trade-marks and other like property or rights

Article VII—Amounts paid by an enterprise of one of the territories for technical services furnished by an enterprise of the other territory shall not be subject to tax by the first-mentioned territory except in so far as such amounts are attributable to activities actually performed in the first-mentioned territory In computing the income so subject to tax, there shall be allowed as deductions the expenses incurred in the first-mentioned territory in connection with the activities performed in that territory

Article VIII—Dividends paid by a company which is a resident of one of the territories to a resident of the other territory may be taxed only in the first-mentioned territory

Article IX.—Interest on bonds, securities, notes, debentures or any other form of indebtedness, derived by a resident of one of the territories from sources in the other territory may be taxed only in that other territory

Article X—Income from immovable property may be taxed only in the territory in which the property is situated For this purpose any rent or royalty or other income derived from the operation of a mine, quarry or any other place of extraction of natural resources shall be regarded as income from immovable property

Article XI—(1) Capital gains derived from the sale, exchange or transfer of a capital asset, whether movable or immovable, may be taxed only in the territory in which the capital asset is situated at the time of such sale, exchange or transfer For this purpose, the situs of the shares of a company shall be deemed to be in the territory where the company is incorporated

(2) In this article the term "capital asset" does not include movable property in the form of personal effects (*e g* , wearing apparel, jewellery and furniture) held for personal use by the taxpayer or any member of his family dependent on him

Article XII—(1) Remuneration for services rendered (other than pensions and annuities) paid out of public funds of Austria shall not be taxed in India unless the payment is made to a national of India for services rendered therein

(2) Remuneration for services rendered (other than pensions and annuities) paid out of public funds of India shall not be taxed in Austria unless the payment is made to a national of Austria for services rendered therein

(3) The provisions of paragraphs (1) and (2) of this article shall not apply to payments in respect of services in connection with any trade or business carried on by either of the Contracting Parties or political sub-divisions thereof for purposes of profit

(4) The provisions of paragraphs (1) and (2) of this article shall also apply to remuneration other than pensions and annuities, paid by the Austrian National Bank, the Austrian Federal Railways and the Austrian Postal and Telegraphal Administration and by the Reserve Bank of India, the Public Railways Authorities and the Postal Administration of India

Article XIII—(1) Any pension or annuity derived by a resident of one of the territories from sources in the other territory may be taxed only in that other territory

(2) In this article, the term "pension" means periodic payments made in consideration of services rendered or by way of compensation for injuries received The term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time

Article XIV—(1) Subject to Article XII, profits or remuneration from professional services or from services as an employee derived by an individual who is a resident of one of the territories may be taxed in the other territory only if such services are rendered in that other territory

(2) An individual who is a resident of Austria shall not be taxed in India on profits or remuneration referred to in paragraph (1) if—

(*a*) he is temporarily present in India for a period or periods not exceeding in the aggregate 183 days during the relevant "previous year",

(*b*) the services are rendered for or on behalf of a resident of Austria,

(*c*) the profits or remuneration are subject to Austrian tax, and

(*d*) the profits or remuneration are not deducted in computing the profits of an enterprise chargeable to Indian tax.

(3) An individual who is a resident of India shall not be taxed in Austria on profits or remuneration referred to in paragraph (1) if—

(*a*) he is temporarily present in Austria for a period or periods not exceeding in the aggregate 183 days during a taxable year,

(*b*) the services are rendered for or on behalf of a resident of India,

(*c*) the profits or remuneration are subject to Indian tax, and

(*d*) the profits or remuneration are not deducted in computing the profits of an enterprise chargeable to Austrian tax

(4) Where an individual permanently or predominantly performs services on ships or aircraft operated by an enterprise of one of the territories, such services shall be deemed to be performed in that territory

Article XV—A professor or teacher from one of the territories who receives remuneration for teaching, during a period of temporary residence not exceeding two years, at a university, college, school or other educational institution in the other territory, shall not be taxed in that other territory in respect of that remuneration

Article XVI—(1) An individual from one of the territories who is temporarily present in the other territory solely

(*a*) as a student at a university, college or school in that other territory,

(*b*) as a business apprentice, or

(*c*) as the recipient of a grant, allowance or award for the primary purpose of study or research from a religious, charitable, scientific or educational organisation,

shall not be taxed in the other territory in respect of remittances from abroad for the purposes of his maintenance, education or training, in respect of a scholarship, and in respect of any amount representing remuneration for an employment which he exercises in that other territory for the purposes of practical training

(2) An individual from one of the territories who is temporarily present in the other territory for a period not exceeding one year, as an employee of, or under

contract with, an enterprise of the former territory or an organisation referred to in paragraph (1), sub-paragraph (*c*) above, solely to acquire technical, professional or business experience from a person other than such enterprise or organisation, shall not be taxed in that other territory on remuneration for such period, unless the amount thereof exceeds 50,000—Austrian shillings or its equivalent in Indian currency

(3) An individual from one of the territories temporarily present in the other territory under arrangements with the Government of that other territory solely for the purpose of training, research or study shall not be taxed in that other territory on remuneration received in respect of such training, research or study, unless the amount thereof exceeds 80,000—Austrian shillings or its equivalent in Indian currency

Article XVII—(1) The laws in force in either of the territories will continue to govern the assessment and taxation of income in the respective territories except where express provision to the contrary is made in this Convention

(2) Income from sources within Austria which in accordance with this Convention may be subjected to tax in Austria either directly or by deduction shall not be subject to Indian tax

(3) Income from sources within India which in accordance with this Convention may be subjected to tax in India either directly or by deduction shall not be subject to Austrian tax

(4) Notwithstanding the provisions of paragraphs (2) and (3) of this article, the items of income which under the laws of the two territories should be taken into account for calculating the rate of tax to be imposed shall continue to be so taken into account

Article XVIII—The competent authorities shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of the present Convention Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of the present Convention No information as aforesaid shall be exchanged by the competent authority of one of the territories which would disclose any trade, business, industrial or professional secret or any trade process to the authority of the other territory

Article XIX—(1) Where a resident of one of the territories shows proof that the action of the taxation authorities of the other territory has resulted or will result in double taxation contrary to the provisions of the present Convention, he shall be entitled to present his case to the competent authority of the territory of which he is a resident Should his claim be deemed worthy of consideration, the competent authority to which the claim is made shall endeavour to come to an agreement with the competent authority of the other territory with a view to avoiding double taxation

(2) Should any difficulty or doubt arise as to the interpretation or application of the present Convention the competent authorities of both territories may settle the question by mutual agreement

Article XX—The provisions of the present Convention shall not be construed to restrict in any manner any exemption, deduction, credit or other allowance now or hereafter accorded by the laws of one of the Contracting States in determining the tax of that Contracting State

Article XXI—(1) The present Convention shall be ratified

(2) The instruments of ratification shall be exchanged at Vienna as soon as possible.

(3) The present Convention shall enter into force upon the exchange of instruments of ratification and shall thereupon have effect—

(*a*) in respect of Austrian tax, for taxes which are levied for the calendar year 1962 and for subsequent calendar years, and

(*b*) in respect of Indian tax, in relation to the income for any "previous year" relevant to any year of assessment beginning on or after the 1st April, 1963

Article XXII—The present Convention shall continue in effect indefinitely but either of the Contracting Parties may on or before the 30th of June in any calendar year after 1965 give to the other Contracting Party notice of termination and, in such event, the present Convention shall cease to be effective—

(*a*) in respect of Austrian tax, for taxes which are levied for the calendar years following the year in which the notice of termination is given, and

(*b*) in respect of Indian tax, in relation to the income which arises on or after the 1st of January following the year in which the notice of termination is given

In witness whereof the undersigned Plenipotentiaries have signed the present Convention

Done in duplicate at New Delhi, in the English language, this 24th day of September, 1963

For the Republic of India,

Shrimati Tarkeshwari Sinha
Deputy Minister of Finance,
Government of India

For the Republic of Austria,

Dr George Schlumberger
Ambassador of the Republic of
Austria in India

New Delhi,
24th September, 1963

Dear Sir,

The Convention between the Republic of India and the Republic of Austria for the avoidance of double taxation with respect to taxes on income being signed today, I have the honour, on behalf of the Government of India, to inform you that where a resident of one of the territories fulfils an order for the sale of machinery to a resident of the other territory and it is incidental to the sale of the machinery that a person or persons employed by the resident of the first-mentioned territory should proceed to that other territory for assisting in the installation of the machinery therein, such activity shall not be deemed to constitute a permanent establishment unless it is carried on for a period exceeding one month or the expenses incurred on such activity are more than ten per cent of the total sale price for the order

I shall be grateful if you confirm your agreement to the above understanding of the provisions of Article II(1)(*g*)(*bb*) of the said Convention, and that in such case, this note and your reply thereto shall be deemed to be part of the Convention.

Please accept, Mr Ambassador, the assurance of my high consideration

Shrimati Tarkeshwari Sinha

To

His Excellency Dr George Schlumberger,
Ambassador of the Republic
of Austria in India,
New Delhi

New Delhi,
24th September, 1963

Madam,

With reference to the Convention, signed today, between the Republic of Austria and the Republic of India for the avoidance of double taxation with respect to taxes on income, you have informed me of the following

"The Convention between the Republic of India and the Republic of Austria for the avoidance of double taxation with respect to taxes on income being signed today, I have the honour, on behalf of the Government of India, to inform you that where a resident of one of the territories fulfils an order for the sale of machinery to a resident of the other territory and it is incidental to the sale of the machinery that a person or persons employed by the resident of the first-mentioned territory should proceed to that other territory for assisting in the installation of the machinery therein, such activity shall not be deemed to constitute a permanent establishment unless it is carried on for a period exceeding one month or the expenses incurred on such activity are more than ten per cent of the total sale price for the order

I shall be grateful if you confirm your agreement to the above understanding of the provisions of Article II(1)(*g*)(*bb*) of the said Convention, and that in such case, this note and your reply thereto shall be deemed to be part of the Convention "

I have the honour to inform you that this proposal meets my approval Your note of today's date and my reply thereto shall therefore be part of the Convention

Accept, Madam Minister, the assurance of my high consideration

Dr George Schlumberger

To

Shrimati Tarkeshwari Sinha,
Deputy Minister of Finance,
Government of India,
New Delhi

AGREEMENT FOR AVOIDANCE OF DOUBLE TAXATION BETWEEN INDIA AND GREECE

(Notification No. G S R 394, dated 17th March 1967)

Whereas the annexed Agreement between the Government of India and the Government of Greece for the avoidance of double taxation of income has been ratified and the instruments of ratification exchanged, as required by Article XX of the said Agreement,

Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (XLIII of 1961), the Central Government hereby directs that all the provisions of the said Agreement shall be given effect to in the Union of India

ANNEXURE

Agreement between the Government of India and the Government of Greece for the avoidance of double taxation of income

Whereas the Government of India and the Government of Greece desire to conclude an agreement for the avoidance of double taxation of income,

Now, therefore, it is hereby agreed as follows

Article I—(1) The taxes which are the subject of the present Agreement are

(*a*) in India

the income-tax,

the super-tax,

the surcharge,

imposed under the Income-tax Act, 1961 (XLIII of 1961),

(hereinafter referred to as "Indian tax"),

(*b*) in Greece

the tax on physical persons and the income-tax on legal entities, and any special tax levied in Greece with reference to freight earned by shipping enterprises by the carriage of passengers, live-stock or goods,

imposed under the Royal Decrees No 3323/1955 and 3843/1958 and the Law No 1880/1951,

(hereinafter referred to as "Greek tax")

(2) The present Agreement shall also apply to any other taxes of a substantially similar character imposed in India or Greece subsequent to the date of signature of the present Agreement

Article II—(1) In the present Agreement, unless the context otherwise requires·

(*a*) the term "Greece" means the territory of the Kingdom of Greece,

(*b*) the terms "one of the territories" and "the other territory" mean Greece or India as the context requires,

(*c*) the term "person" includes natural persons, companies and all other entities which are treated as taxable units under the tax laws in force in the respective territories,

(*d*) the term "company" means any entity which is treated as a body corporate or as a company for tax purposes,

(*e*) the term "tax" means the Greek tax or Indian tax, as the context requires,

(*f*) the terms "resident of Greece" and "resident of India" mean, respectively, a person who is resident in Greece for the purposes of Greek tax and not resident in India for the purposes of Indian tax, and a person who is resident in India for the purposes of Indian tax and not resident in Greece for the purposes of Greek tax

a company shall be regarded as resident in Greece if it is incorporated in Greece or its business is wholly managed and controlled in Greece, a company shall be regarded as resident in India if it is incorporated in India or its business is wholly managed and controlled in India,

(*g*) the terms "Greek enterprise" and "Indian enterprise" mean, respectively, an industrial or commercial enterprise or undertaking carried on by a resident of Greece and an industrial or commercial enterprise or undertaking carried on by a resident of India, and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean a Greek enterprise or an Indian enterprise, as the context requires,

(*h*) the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on,

(*aa*) the term "fixed place of business" shall include a place of management, a branch, an office, a factory, a workshop, a warehouse, a mine, quarry or other place of extraction of natural resources,

(*bb*) an enterprise of one of the territories shall be deemed to have a fixed place of business in the other territory if it carries on in that other territory a construction, installation or assembly project or the like,

(*cc*) the use of mere storage facilities or the maintenance of a place of business exclusively for the purchase of goods or merchandise and not for any processing of such goods or merchandise in the territory of purchase, shall not constitute a permanent establishment,

(*dd*) a person acting in one of the territories for or on behalf of an enterprise of the other territory shall be deemed to be a permanent establishment of that enterprise in the first-mentioned territory, only if

1 he has and habitually exercises in the first-mentioned territory a general authority to negotiate and enter into contracts for or on behalf of the enterprise, unless the activities of the person are limited exclusively to the purchase of goods or merchandise for the enterprise, or

2. he habitually maintains in the first-mentioned territory a stock of goods or merchandise belonging to the enterprise from which the person regularly delivers goods or merchandise for or on behalf of the enterprise, or

3. he habitually secures orders in the first-mentioned territory wholly or almost wholly for the enterprise itself or for the enterprise and other enterprises which are controlled by it or have a controlling interest in it,

(*ee*) a broker of a genuinely independent status who merely acts as an intermediary between an enterprise of one of the territories and a prospective customer in the other territory shall not be deemed to be a permanent establishment of the enterprise in the last-mentioned territory,

(*ff*) the fact that a company, which is a resident of one of the territories, has a subsidiary company which either is a resident of the other territory or

carries on a trade or business in that other territory (whether through a permanent establishment or otherwise) shall not, of itself, constitute that subsidiary company a permanent establishment of its parent company;

(i) the term "pension" means a periodic payment made in consideration of services rendered or by way of compensation for injuries received;

(j) the term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth,

(k) the term "competent authority" means in the case of India, the Central Government in the Ministry of Finance, Department of Revenue, or its authorised representative and in the case of Greece, the Ministry of Finance or its authorised representative

(2) In the application of the provisions of this Agreement in one of the territories any term not otherwise defined in this Agreement shall, unless the context otherwise requires, have the meaning which it has under the laws in force in that territory relating to the taxes which are the subject of this Agreement

Article III—(1) Subject to the provisions of paragraph (3) below, tax shall not be levied in one of the territories on the industrial or commercial profits of an enterprise of the other territory unless profits are derived in the first-mentioned territory through a permanent establishment of the said enterprise situated in the first-mentioned territory If profits are so derived, tax may be levied in the first-mentioned territory on the profits attributable to the said permanent establishment

(2) There shall be attributed to the permanent establishment of an enterprise of one of the territories situated in the other territory the industrial or commercial profits which it might be expected to derive in that other territory if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment In any case, where the correct amount of profits attributable to a permanent establishment is incapable of determination or the ascertainment thereof presents exceptional difficulties, the profits attributable to the establishment may be estimated on a reasonable basis

(3) For the purposes of this Agreement the term "industrial or commercial profits" shall not include income in the form of rents, royalties, interest, dividends, management charges, remuneration for labour or personal services or income from the operation of ships or aircraft

Article IV—Where—

(a) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory, or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory,

and in either case conditions are made or imposed between the two enterprises, in their commercial or financial relations, which differ from those which would be made between independent enterprises, then any profits which but for those conditions would have accrued to one of the enterprises but by reason of those conditions have not so accrued may be included in the profits of that enterprise and taxed accordingly

Article V—(1) Income derived from the operation of aircraft by an enterprise of one of the territories shall not be taxed in the other territory, unless the aircraft is operated wholly or mainly between places within that other territory

(2) Paragraph (1) shall likewise apply in respect of participations in pools of any kind by enterprises engaged in air transport

Article VI.—(1) When a resident of Greece, operating ships, derives profits from India through such operations carried on in India, such profits may be taxed in Greece as well as in India, but the tax so charged in India shall be reduced by an amount equal to 50% thereof, and the reduced amount of Indian tax payable on the profits shall be allowed as a credit against Greek tax charged in respect of such income The credit aforesaid shall not exceed the Greek tax charged in respect of such income

(2) (*a*) When a resident of India, operating ships, derives profits from Greece, through such operations carried on in Greece, such profits may be taxed in Greece as well as in India, but the tax so charged in Greece shall be reduced by an amount equal to 50% thereof and the reduced amount of Greek tax payable shall be allowed as a credit against Indian tax charged in respect of such income The credit aforesaid shall not exceed the Indian tax charged in respect of such income

(*b*) Sub-clause (*a*) of clause 2 shall not, however, apply as long as the laws in Greece do not impose any tax on income derived from the operation of ships belonging to foreign enterprises operating in the Greek territory In such cases, the profits referred to in sub-clause (*a*) of clause 2 may be taxed only in India

(3) Paragraphs (1) and (2) shall not apply to profits arising as a result of coastal traffic

(4) The provisions of clause (1) shall not in the case of India affect the application of sub-sections (1) to (6) of section 172 of the Income-tax Act, 1961, for the assessment of profits from occasional shipping or tramp steamers, but the provisions of that clause will be applied, when an adjustment is to be made under sub-section (7) of the aforesaid section of the Income-tax Act, 1961, in such cases

Article VII—Royalties derived by a resident of one of the territories from sources in the other territory may be taxed only in that other territory

In this Article, the term "royalty" means any royalty or other like amount received as consideration for the right to use copyrights, artistic or scientific works, cinematographic films, patents, models, designs, plans, secret processes or formulae, trade-marks and other like property or rights, but does not include any royalty or other like amount in respect of the operation of mines, quarries or other natural resources

Article VIII—Dividends paid by a company which is a resident of one of the territories to a resident of the other territory may be taxed only in the first-mentioned territory

Article IX—Interest on bonds, securities, notes, debentures or any other form of indebtedness derived by a resident of one of the territories from sources in the other territory may be taxed only in that other territory

Article X—Income from immovable property may be taxed only in the territory in which the property is situated For this purpose any rent or royalty or other income derived from the operation of a mine, quarry or any other place of extraction of natural resources shall be regarded as income from immovable property

Article XI—Capital gains derived from the sale, exchange or transfer of a capital asset, whether movable or immovable, may be taxed only in the territory in which the capital asset is situated at the time of such sale, exchange or transfer

Article XII—(1) Remuneration other than pensions and annuities, paid in Greece for services rendered therein out of public funds of India shall not be taxed in Greece unless the payment is made to a citizen of Greece.

(2) Remuneration other than pensions and annuities, paid in India for services rendered therein out of public funds of Greece shall not be taxed in India unless the payment is made to a citizen of India

(3) The provisions of paragraphs (1) and (2) of this Article shall not apply to payments in respect of services in connection with any trade or business carried on by either of the Contracting Parties or political sub-divisions thereof for purposes of profit

(4) The provisions of paragraphs (1) and (2) of this Article shall also apply to remuneration other than pensions and annuities paid by the Reserve Bank of India, the Public Railways Authorities and the Postal Administration of India and by the Bank of Greece, Greek State Railways and the Greek Postal and Telegraphic Administration

Article XIII—Any pension or annuity derived by a resident of one of the territories from sources in the other territory may be taxed only in that other territory

Article XIV—(1) Profits or remuneration for professional services or for services as an employee (including services as a director) performed in one of the territories by an individual who is a resident of the other territory may be taxed only in the territory in which such services are performed

(2) An individual who is a resident of India shall not be taxed in Greece on profits or remuneration referred to in paragraph (1) if—

(*a*) he is temporarily present in Greece for a period or periods not exceeding in the aggregate 183 days during the calendar year immediately preceding the relevant fiscal year,

(*b*) the services are performed for or on behalf of a resident of India,

(*c*) the profits or remuneration are subject to Indian tax, and

(*d*) the profits or remuneration are not deducted in computing the profits of an enterprise chargeable to Greek tax

(3) An individual who is a resident of Greece shall not be taxed in India on the profits or remuneration referred to in paragraph (1) if—

(*a*) he is temporarily present in India for a period or periods not exceeding in the aggregate 183 days during the relevant "previous year",

(*b*) the services are rendered for or on behalf of a resident of Greece,

(*c*) the profits or remuneration are subject to Greek tax, and

(*d*) the profits or remuneration are not deducted in computing the profits of an enterprise chargeable to Indian tax.

(4) Where an individual permanently or predominantly performs services on ships or aircraft in international traffic operated by an enterprise of one of the territories, profits or remuneration from such services may be taxed only by the country of which the individual is resident

Article XV.—A professor or teacher from one of the territories, who receives remuneration for teaching, during a period of temporary residence not exceeding two years, at a university, college, school or other educational institution in the other territory, shall not be taxed in that other territory in respect of that remuneration.

Article XVI—An individual from one of the territories who is temporarily present in the other territory solely—

(*a*) as a student at a university, college or school in such other territory,

(*b*) as a business apprentice, or

(*c*) as the recipient of a grant, allowance or award for the primary purpose of study or research from a religious, charitable, scientific or educational organisation,

shall not be taxed in the other territory in respect of remittances from abroad for the purposes of his maintenance, education or training, in respect of a scholarship, and in respect of any amount representing remuneration for services rendered in that other territory, provided that such services are in connection with his studies or training or are necessary for the purpose of his maintenance

Article XVII—(1) The laws in force in either of the territories will continue to govern the assessment and taxation of income in the respective territories except where express provision to the contrary is made in this Agreement

(2) Subject to the provisions of Article VI income from sources within Greece which under the laws of Greece and in accordance with this Agreement is subject to tax in Greece either directly or by deduction shall not be subject to Indian tax

(3) Subject to the provisions of Article VI income from sources within India which under the laws of India and in accordance with this Agreement is subject to tax in India either directly or by deduction shall not be subject to Greek tax

(4) The graduated rate of Greek tax to be imposed on residents of Greece and the graduated rate of Indian tax to be imposed on residents of India may be calculated as though income which under this Agreement is not subject to Greek or Indian tax, as the case may be, were included in the amount of the total income

Article XVIII—The competent authorities shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of the present Agreement Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of the present Agreement No information as aforesaid shall be exchanged by the competent authority of one of the territories which would disclose any trade, business, industrial or professional secret or any trade process to the authority of the other territory

Article XIX—Where a resident of one of the territories shows proof that the action of the taxation authorities of the other territory has resulted or will result in double taxation contrary to the provisions of the present Agreement, he shall be entitled to present his case to the competent authority of the territory of which he is resident Should his claim be deemed worthy of consideration, the competent authority to which the claim is made shall endeavour to come to an agreement with the competent authority of the other territory with a view to avoiding double taxation

Article XX—(1) The present Agreement shall be ratified and the instruments of ratification shall be exchanged at New Delhi as soon as possible

(2) Upon exchange of the instruments of ratification, the present Agreement shall have effect—

(*a*) in India, for any year of assessment, beginning on or after the 1st April, 1964,

(*b*) in Greece, for any fiscal year, beginning on or after the 1st January, 1964

Article XXI—This Agreement shall continue in effect indefinitely but either of the Contracting Parties may on or before the 30th day of June in any calendar year after 1965 give to the other Contracting Party notice of termination, and in such event this Agreement shall cease to be effective—

(*a*) in India, for any year of assessment beginning on or after the 1st April in the calendar year next following such written notice of termination,

(*b*) in Greece, for any fiscal year beginning on or after the 1st January next following such written notice of termination

In witness whereof the undersigned duly authorised thereto have signed this Agreement and have affixed thereto their seals

Done at New Delhi on the 11th February, 1965, in duplicate, in the English language

For the Republic of India,

Rameshwar Sahu
Deputy Minister of Finance,
Government of India

For the Royal Government of Greece,

George Warsamy
Ambassador of Greece,
New Delhi

AGREEMENT FOR AVOIDANCE OF DOUBLE TAXATION BETWEEN INDIA AND ROMANIA

(Notification No G S R 2203, dated 20th December 1968)

Whereas the annexed Agreement between the Government of India and the Government of Socialist Republic of Romania for the avoidance of double taxation of income of enterprises operating aircraft and ships in international traffic has been approved in accordance with the laws in force in each of the two Contracting States and the diplomatic notes to this effect have been exchanged, as required by paragraph (1) of Article VIII of the said Agreement;

Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (XLIII of 1961), and section 24A of the Companies (Profits) Surtax Act, 1964 (VII of 1964), the Central Government hereby directs that all the provisions of the said Agreement shall be given effect to in the Union of India

ANNEXURE

Agreement between the Government of India and the Government of Socialist Republic of Romania for the avoidance of double taxation of income of enterprises operating aircraft and ships in international traffic

Whereas the Government of India and the Government of Socialist Republic of Romania desire to conclude an agreement for the avoidance of double taxation of income of enterprises operating aircraft and ships in international traffic,

Now, therefore, the said two Governments do hereby agree as follows·

Article I—(1) The taxes to which this Agreement shall apply are·

(*a*) in the case of India·

(*i*) the income-tax including any surcharge on income-tax imposed under the Income-tax Act, 1961 (XLIII of 1961), as amended, and

(*ii*) the surtax imposed under the Companies (Profits) Surtax Act, 1964 (VII of 1964), as amended,

(hereinafter referred to as "Indian tax"),

(*b*) in the case of Romania

the income-tax imposed under the Income-tax Decree, 1954 (CLIII of April 28, 1954), as amended,

(hereinafter referred to as "Romanian tax")

(2) This Agreement shall also apply to any identical or substantially similar taxes which are imposed after the date of the signature of this Agreement in addition to, or in place of, the existing taxes.

Article II—(1) In this Agreement, unless the context otherwise requires

(*a*) the term "India" shall have the meaning assigned to it in Article 1 of the Constitution of India;

(*b*) the term "Romania" shall have the meaning assigned to it in the Constitution of the Socialist Republic of Romania,

(*c*) the terms "a Contracting State" and "the other Contracting State" mean India or Romania, as the context requires,

(*d*) the term "tax" means "Indian tax" or "Romanian tax", as the context requires,

(*e*) the terms "Indian enterprise" and "Romanian enterprise" mean, respectively, an industrial or commercial enterprise or undertaking carried on by a resident of India, and an industrial or commercial enterprise or undertaking carried on by a resident of Romania, and the terms "enterprise of one of the Contracting States" and "enterprise of the other Contracting State" mean an Indian enterprise or a Romanian enterprise, as the context requires,

(*f*) the terms "resident of India" and "resident of Romania" mean, respectively, a person who is resident in India for the purposes of Indian tax and not resident in Romania for the purposes of Romanian tax, and a person who is resident in Romania for the purposes of Romanian tax and not resident in India for the purposes of Indian tax,

(*g*) the term "person" includes individuals, companies, societies and all other entities which are treated as taxable units under the tax laws in force in either Contracting State,

(*h*) the term "competent authority" means in the case of India, the Central Government in the Ministry of Finance (Department of Revenue and Insurance), and in the case of the Socialist Republic of Romania, the Ministry of Finance

(2) In the application of the provisions of this Agreement by one of the Contracting States, any terms used but not defined herein shall, unless the context otherwise requires, have the meaning which it has under the laws in force in that State relating to the taxes to which this Agreement applies

Article III—(1) Income derived from the operation of aircraft in international traffic by an enterprise of one of the Contracting States shall be exempt from tax in the other Contracting State

(2) Paragraph (1) shall likewise apply in respect of participations in pools of any kind by enterprises engaged in air transport

Article IV—(1) Income derived by a resident of Romania through shipping operations carried on in India may be taxed in Romania, as well as in India, but the tax so charged in India shall be reduced by an amount equal to fifty per cent thereof, and the reduced amount of Indian tax payable on the profits shall be allowed as a credit against Romanian tax charged in respect of such income The credit aforesaid shall not exceed the Romanian tax charged in respect of such income

(2) Income derived by a resident of India through shipping operations carried on in Romania may be taxed in India as well as in Romania but the tax so charged in Romania shall be reduced by an amount equal to fifty per cent. thereof and the reduced amount of Romanian tax payable shall be allowed as a credit against Indian tax charged in respect of such income However, where such resident is a company by which surtax is payable in India, the credit aforesaid shall be allowed, in the first instance, against the income-tax payable by the company in India and, as to the balance, if any, against the surtax payable by it in India The credit aforesaid shall not exceed the Indian tax charged in respect of such income

(3) In the determination of income arising in a Contracting State to an enterprise of the other Contracting State from shipping operations (that is to say, carriage of passengers, live-stock, mail or goods from any port or ports in the first-mentioned Contracting State), there shall be allowed as deductions depreciation in respect of the ship or ships and all operating expenses, wherever incurred and also executive and

general administrative expenses so incurred, in so far as these are reasonably attributable to the shipping operations carried on in the first-mentioned Contracting State However, the amount of the deductions to be so allowed shall, in no case, be less than five-sixths of the gross earnings of the ship from the carriage of passengers, live-stock, mail or goods from any port or ports in the Contracting State

(4) Paragraphs (1) and (2) shall not apply to profits arising as a result of coastal traffic

Article V.—The laws in force in either of the Contracting States will continue to govern the assessment and taxation of income in the Contracting States except where express provision to the contrary is made in this Agreement

Article VI—(1) Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Agreement, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident

(2) The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Agreement.

(3) The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement

(4) The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through representatives of the competent authorities of the Contracting States

Article VII—(1) The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Agreement and of the domestic laws of the Contracting States concerning taxes covered by this Agreement in so far as the taxation thereunder is in accordance with this Agreement Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those concerned with the assessment, including judicial determination, or collection of the taxes which are the subject of this Agreement

(2) In no case shall the provisions of paragraph (1) be construed so as to impose on one of the Contracting States the obligation

(*a*) to carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State,

(*b*) to supply particulars which are not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State,

(*c*) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public)

Article VIII—(1) The present Agreement shall be approved in accordance with the laws in force in each of the two Contracting States It shall enter into force on the

date of exchange of diplomatic notes certifying that the proper procedure was fulfilled in each State The exchange of notes shall take place at New Delhi.

(2) The present Agreement shall thereupon be applicable

(*a*) in India, in respect of income arising in India on or after the 1st day of January, 1966,

(*b*) in Romania, in respect of income arising in Romania on or after the 1st day of January, 1966

Article IX—This Agreement shall continue in effect indefinitely but either of the Contracting States may, on or before the 30th day of June in any calendar year after the year 1972, give notice of termination to the other Contracting State and in such event this Agreement shall cease to be effective

(*a*) in India, in respect of income arising in India on or after the 1st day of January in the calendar year next following that year in which the notice is given,

(*b*) in Romania, in respect of income arising in Romania on or after the 1st day of January in the calendar year next following that year in which the notice is given

In witness whereof the undersigned, duly authorised thereto, have signed the present Agreement

Done in duplicate at New Delhi, this 25th day of September, one thousand nine hundred and sixty-eight, in the English language

For the Government of India,

Krishna Chandra Pant
Minister for Revenue and Expenditure

For the Government of Socialist Republic of Romania,

Aurel Ardeleanu
Ambassador Extraordinary and Plenipotentiary

AGREEMENT FOR AVOIDANCE OF DOUBLE TAXATION BETWEEN INDIA AND LEBANON

(Notification No G S R 1552-1553, dated 28th June 1969)

Whereas the annexed Agreement between the Government of India and the Government of the Republic of Lebanon for the avoidance of double taxation of income of enterprises operating aircraft has been ratified and the instruments of ratification exchanged, as required by Article V of the said Agreement,

Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (XLIII of 1961), and section 24A of the Companies (Profits) Surtax Act, 1964 (VII of 1964), the Central Government hereby directs that all the provisions of the said Agreement shall be given effect to in the Union of India

ANNEXURE

Agreement between the Government of India and the Government of the Republic of Lebanon for the avoidance of double taxation of income of enterprises operating aircraft

Whereas the Government of India and the Government of the Republic of Lebanon desire to conclude an agreement for the avoidance of double taxation of income of enterprises operating aircraft chargeable to tax in the said countries in accordance with their respective laws,

Now, therefore, the said two Governments do hereby agree as follows

Article I—(1) The taxes to which this Agreement shall apply are

(*a*) in the case of India

(*i*) the income-tax including any surcharge on income-tax imposed under the Income-tax Act, 1961 (XLIII of 1961), as amended, and

(*ii*) the surtax imposed under the Companies (Profits) Surtax Act, 1964 (VII of 1964), as amended,

(hereinafter referred to as "Indian tax"),

(*b*) in the case of the Republic of Lebanon

the income-tax including any additional tax on income-tax prescribed under the Income-tax law issued by the Legislative Decree No 144, dated June 12, 1959, as amended,

(hereinafter referred to as "Lebanese tax")

(2) This Agreement shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes

Article II—(1) In this Agreement, unless the context otherwise requires

(*a*) the term "India" shall have the meaning assigned to it in Article 1 of the Constitution of India,

(*b*) the term "the Republic of Lebanon" shall have the meaning assigned to it in the Lebanese Constitution,

(*c*) the terms "a Contracting State" and "the other Contracting State" mean India or the Republic of Lebanon, as the context requires,

(*d*) the term "tax" mean [illegible]" or "Lebanese tax", as the context requires,

(*e*) the term "enterprise of a Contracting State" means—

(*i*) an airline designated by the Government of that State in pursuance of the Agreement dated September 19, 1964, as may be amended or revised from time to time, between the Government of India and the Government of the Republic of Lebanon relating to air services, or

(*ii*) an airline which is authorised by the Government of that State by a general or special arrangement between the two Contracting States to operate charter flights between or beyond their territories

(2) In the application of the provisions of this Agreement by one of the Contracting States, any term used but not defined herein shall, unless the context otherwise requires, have the meaning which it has under the laws in force in that State relating to the taxes to which this Agreement applies

Article III—(1) Income derived from the operation of aircraft in international traffic by an enterprise of one of the Contracting States shall be exempt from tax in the other Contracting State

(2) Paragraph (1) shall likewise apply in respect of participations in pools of any kind by enterprises engaged in air transport.

Article IV.—The laws in force in either of the Contracting States will continue to govern the assessment and taxation of income in the Contracting States except where express provision to the contrary is made in this Agreement.

Article V—(1) This Agreement shall be ratified and the instruments of ratification shall be exchanged at Beirut as soon as possible

(2) This Agreement shall enter into force on the date of the exchange of the instruments of ratification and its provisions shall have effect

(*a*) in India, in respect of income assessable for any year of assessment commencing on or after the 1st day of April, 1962,

(*b*) in Lebanon, in respect of income assessable for any year of assessment commencing on or after the 1st day of April, 1962

Article VI—This Agreement shall continue in effect indefinitely but either of the Contracting States may, on or before the 30th day of June in any calendar year after the year 1970, give notice of termination to the other Contracting State and in such event this Agreement shall cease to be effective

(*a*) in India, in respect of income assessable for any year of assessment commencing on or after the 1st day of April in the calendar year next following that year in which the notice is given,

(*b*) in Lebanon, in respect of income assessable for any year of assessment commencing on or after the 1st day of April in the calendar year next following that year in which the notice is given

In witness whereof the undersigned, duly authorised thereto, have signed the present Agreement

Done in duplicate at Beirut, this 22nd day of February, one thousand nine hundred and sixty-eight, in the Hindi, Arabic and English languages, all the three texts being equally authentic, except in the case of doubt when the English text shall prevail

K Srinivasan
For the Government of India

Khalil Salem
For the Government of
the Republic of Lebanon

PROTOCOL

The Government of India and the Government of the Republic of Lebanon,

Having entered into an Agreement for the avoidance of double taxation of income of enterprises operating aircraft which is effective in respect of income assessable for any year of assessment commencing on or after the 1st day of April, 1962,

Recognising that Air-India which is an enterprise of India and Middle East Airlines which is an enterprise of the Republic of Lebanon have been deriving income, respectively, in the Republic of Lebanon and India from the operation of aircraft in international traffic which is assessable for one or more years of assessment prior to the year of assessment commencing on the 1st day of April, 1962,

Considering that the Indian Income-tax Act, 1922 (XI of 1922), has been repealed with effect from the 1st day of April, 1962,

Have accordingly agreed at the time of signing of the said Agreement as follows

"The Government of India has not levied any Indian tax on the income of Middle East Airlines for any of the years of assessment aforementioned and hereby agrees not to levy such tax hereafter, and

The Government of the Republic of Lebanon has not levied any Lebanese tax on the income of Air-India for any of the years of assessment aforementioned and hereby agrees not to levy such tax hereafter "

And have further agreed that this Protocol shall constitute an integral part of the said Agreement

In witness whereof the undersigned, duly authorised thereto, have signed the present Protocol

Done in duplicate at Beirut, this 22nd day of February, one thousand nine hundred and sixty-eight, in the Hindi, Arabic and English languages, all the three texts being equally authentic, except in the case of doubt when the English text shall prevail

K Srinivasan	Khalil Salem
For the Government of India	For the Government of the Republic of Lebanon

CONVENTION FOR AVOIDANCE OF DOUBLE TAXATION BETWEEN INDIA AND THE UNITED ARAB REPUBLIC

(*Notification No G S R 2363, dated 30th September 1969*)

Whereas the annexed Convention between the Government of India and the Government of the United Arab Republic for the avoidance of double taxation with respect to taxes on income has been ratified and the instruments of ratification exchanged, as required by Article XXIX of the said Convention,

Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (XLIII of 1961), and section 24A of the Companies (Profits) Surtax Act, 1964 (VII of 1964), the Central Government hereby directs that all the provisions of the said Convention shall be given effect to in the Union of India

ANNEXURE

Convention between the Government of India and the Government of the United Arab Republic for the avoidance of double taxation with respect to taxes on income

The Government of India and the Government of the United Arab Republic,

Desiring to conclude a convention for the avoidance of double taxation with respect to taxes on income,

Have agreed as follows

CHAPTER I—SCOPE OF THE CONVENTION

Article I Personal scope—This Convention shall apply to persons who are residents of one or both of the Contracting States

Article II Taxes covered—(1) This Convention shall apply to taxes on income imposed on behalf of each Contracting State or of its political sub-divisions or local authorities, where they have the authority, irrespective of the manner in which they are levied

(2) There shall be regarded as taxes on income all taxes imposed on total income or on all elements of income including taxes on gains from the sale, exchange or transfer of movable or immovable property and taxes on the total amounts of wages or salaries paid by enterprises

(3) The existing taxes to which the Convention shall apply are, in particular:

(*a*) in the case of India

(*1*) the income-tax, including super-tax and the surcharge, imposed under the Income-tax Act, 1961 (XLIII of 1961), and

(*2*) the surtax imposed under the Companies (Profits) Surtax Act, 1964 (VII of 1964),

(hereinafter referred to as "Indian tax"),

(*b*) in the case of the United Arab Republic

(*1*) tax on income derived from immovable property (including the land tax, the buildings tax and the ghaffir tax),

(*2*) tax on income from movable capital,

(*3*) tax on commercial and industrial profits,

(*4*) tax on wages, salaries, indemnities and pensions (as mentioned in book III of Law 14 of 1939),

(*5*) tax on profits from liberal professions and all other non-commercial professions,

(*6*) general income-tax,

(*7*) defence tax (imposed on income),

(*8*) national security tax (imposed on income), and

(*9*) supplementary taxes imposed as percentage of taxes mentioned above,

(hereinafter referred to as "United Arab Republic tax")

(4) The Convention shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in the place of, the existing taxes

(5) At the end of each year, the competent authorities of the Contracting States shall notify to each other any significant changes which have been made in their respective taxation laws

CHAPTER II—DEFINITIONS

Article III General definitions—(1) In this Convention, unless the context otherwise requires

(*a*) the term "India" shall have the meaning assigned to it in Article 1 of the Constitution of India,

(*b*) the term "United Arab Republic" means Egypt,

(*c*) the terms "a Contracting State" and "the other Contracting State" mean India or the United Arab Republic, as the context requires,

(*d*) the term "tax" means Indian tax or United Arab Republic tax, as the context requires,

(*e*) the term "person" includes individuals, companies and all other entities which are treated as taxable units under the tax laws in force in either Contracting State,

(*f*) the term "company" for tax purposes means any entity which is treated as a company under the Indian tax law or any entity which is treated as a body corporate under the United Arab Republic tax law,

(*g*) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean, respectively, an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State,

(*h*) the term "competent authority" means in the case of India, the Central Government in the Ministry of Finance (Department of Revenue and Insurance), and in the case of the United Arab Republic, the Minister of Treasury or his authorised representative

(2) In the application of the provisions of this Convention by one of the Contracting States any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws in force in that State relating to the taxes which are the subject of this Convention

Article IV Fiscal domicile—(1) For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the law of that State, is resident of that State for the purposes of taxation therein by reason of his domicile, residence, place of management or any other criterion applied under the tax laws of that State

(2) Where by reason of the provisions of paragraph (1) an individual is a resident of both Contracting States, then his case shall be determined in accordance with the following rules

(*a*) He shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closest (centre of vital interests)

(*b*) If the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode

(*c*) If he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national

(*d*) If he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement

(3) Where by reason of the provisions of paragraph (1) a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated

Article V Permanent establishment—(1) For the purposes of this Convention, the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on.

(2) The term "permanent establishment" shall include

(*a*) a place of management,

(*b*) a branch,

(*c*) an office,

(*d*) a factory,

(*e*) a workshop or a warehouse,

(*f*) a mine, a quarry, an oilfield or other place of extraction of natural resources,

(*g*) a permanent sales exhibition,

(*h*) a building site or construction or assembly project which exists for more than ninety days

(3) The term "permanent establishment" shall not be deemed to include

(*a*) the use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise,

(*b*) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage or display,

(*c*) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or for collecting information, for the enterprise, and

(*d*) the maintenance of a fixed place of business solely for the purpose of advertising, or for scientific research, for the enterprise

(4) A person acting in one of the Contracting States for or on behalf of an enterprise of the other Contracting State shall be deemed to be a permanent establishment of that enterprise in the first-mentioned State if

(*i*) he has and habitually exercises in that State a general authority to negotiate and enter into contracts for or on behalf of the enterprise, unless the activities of the person are limited to the purchase of goods or merchandise for the enterprise, or

(*ii*) he habitually maintains in the first-mentioned Contracting State a stock of goods or merchandise belonging to the enterprise from which the person regularly delivers goods or merchandise for or on behalf of the enterprise, or

(*iii*) he habitually secures orders in the first-mentioned Contracting State, exclusively or almost exclusively, for the enterprise itself or for the enterprise and other enterprises which are controlled by it or have a controlling interest in it

(5) An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker of a genuinely independent status

(6) The fact that a company, which is a resident of one of the Contracting States, has a subsidiary company which either is a resident of the other Contracting State or carries on a trade or business in that other Contracting State (whether through a permanent establishment or otherwise) shall not, of itself, constitute that subsidiary company a permanent establishment of its parent company

CHAPTER III—TAXATION OF INCOME

Article VI Income from immovable property—(1) Income from immovable property shall be taxable only in the Contracting State in which such property is situated

(2) The term "immovable property" shall be defined in accordance with the law and usage of the Contracting State in which the property in question is situated The term shall in any case include property accessory to immovable property, live-stock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources Ships and aircraft shall not be regarded as immovable property

(3) The provisions of paragraph (1) shall apply to income derived from the direct use, letting, or use in any other form of immovable property

(4) The provisions of paragraphs (1) and (3) shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of professional services

Article VII Business profits—(1) The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment

(2) Where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in

each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment

(3) In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purpose of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere

(4) In so far as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph (2) shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary, the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles laid down in this Article

(5) No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the purpose of export to the enterprise of which it is the permanent establishment

(6) Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of the present Article.

Article VIII Air transport.—(1) Income derived from the operation of aircraft by an enterprise of one of the Contracting States shall not be taxed in the other Contracting State unless the aircraft is operated wholly or mainly between places within that other Contracting State

(2) Paragraph (1) shall likewise apply in respect of participations in pools of any kind by enterprises engaged in air transport

Article IX Shipping—Income derived from the operation of ships by an enterprise of one of the Contracting States shall not be taxed in the other Contracting State unless the ships are operated wholly or mainly between places within that other Contracting State

Article X Associated enterprises—(1) Where

(*a*) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

(*b*) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly

(2) If the information available to the taxation authority concerned is inadequate to determine, for the purposes of paragraph (1) of this Article, the profits which might be expected to accrue to an enterprise, nothing in that paragraph shall affect the

application of the law of either Contracting State in relation to the liability of that enterprise to pay tax on an amount determined by the exercise of a discretion or the making of an estimate by the taxation authority of that State

Provided that such discretion shall be exercised or such estimate shall be made, so far as the information available to the taxation authority permits, in accordance with the principle stated in that paragraph

Provided further that the amount so determined or the estimate so made may be amended or revised when adequate information is furnished to the taxation authority concerned.

Article XI Dividends—(1) Dividends paid by a company which is a resident of India to a resident of the United Arab Republic may be taxed in India

(2) Dividends paid by a company which is a resident of the United Arab Republic to a resident of India may be taxed in the United Arab Republic But such dividends shall only be subject to the tax on income derived from movable capital, the defence tax, the national security tax and the supplementary taxes (which taxes shall be deducted at the source). If paid to a natural person, the general income-tax levied on the net total income may also be imposed Dividends paid shall be deducted from the amount of the distributing company's taxable income or profits subject to the tax chargeable in respect of its industrial and commercial profits if such dividends are distributed out of the taxable profits of the same taxable year but not distributed out of accumulated reserves or other assets

(3) Dividends paid by a company which is a resident of India whose activities lie solely or mainly in the United Arab Republic shall, in the United Arab Republic, be treated as mentioned in paragraph (2) of this Article when such dividends are distributed in the United Arab Republic

(4) Dividends paid by a company which is a resident of the United Arab Republic whose activities lie solely or mainly in India shall, in India, be treated as mentioned in paragraph (1) of this Article when such dividends are distributed in India

(5) Dividends, deemed under Article 11 of United Arab Republic Law 14 of 1939 to be paid out of the yearly profits of a permanent establishment maintained in the United Arab Republic by an Indian company whose activities extend to countries other than the United Arab Republic shall, in the United Arab Republic, be treated as mentioned in paragraph (2) of this Article

The permanent establishment shall be considered to have distributed as dividends in the United Arab Republic within 60 days from the closing of its financial year, an amount equivalent to 90 per cent of its total net profits liable to the tax on industrial and commercial profits without applying the provisions of Article 36 of Law 14 of 1939, provided that the remaining 10 per cent of the net profits shall be set aside to form a special reserve which shall be entered in the local balance sheet submitted annually to the United Arab Republic tax authorities Such amount shall only be subject to the tax on commercial and industrial profits

All amounts deducted from the aforesaid 10 per cent set aside to form the special reserve for purposes other than the redemption of losses incurred in the trade or business carried on by that permanent establishment situated in the United Arab Republic shall be deemed to have been distributed in the United Arab Republic and shall be taxed accordingly

(6) The provisions of paragraphs (1) and (4) of this Article, in the case of the United Arab Republic, shall not affect the application of Article 4 of Law 14 of 1939, but

the provisions of those paragraphs will be applied for the purpose of elimination of double taxation in accordance with provisions of paragraph (2) of Article XXIV of this Convention

Article XII Interest—(1) Interest paid by a resident of India to a resident of the United Arab Republic may be taxed in India

(2) Interest paid by a resident of the United Arab Republic to a resident of India may be taxed in the United Arab Republic But such interest shall only be subject to the tax on income derived from movable capital, the defence tax, the national security tax and the supplementary taxes (which taxes shall be deducted at the source) If paid to a natural person, the general income-tax levied on the net total income may also be imposed

(3) The term "interest" as used in this Article includes income from Government securities, bonds or debentures, (exclusive of interest on debts secured by mortgages on real estate, in which case Article VI shall apply) and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises

(4) Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political sub-division, a local authority or a resident of that State Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated

(5) The provisions of paragraph (1) of this Article in the case of the United Arab Republic shall not affect the application of Article 4 of Law 14 of 1939, but the provisions of that paragraph will be applied for the purpose of elimination of double taxation in accordance with provisions of paragraph (2) of Article XXIV of this Convention

Article XIII Royalties—(1) Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in the first-mentioned State

(2) The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work, any patent, trade-mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment or for information concerning industrial, commercial or scientific experience but does not include any royalty or other like amount in respect of the operation of mines, quarries or any other place of extraction of natural resources

(3) Rents and royalties arising in a Contracting State in respect of cinematographic films and paid to a resident of the other Contracting State shall be taxable only in the first-mentioned State according to the tax laws of that State

(4) The provisions of this Article shall not apply where founders' shares are issued in the United Arab Republic as a consideration for the rights mentioned in paragraph (2) of this Article and taxed in accordance with the provisions of Article 1 of Law 14 cf 1939 In such event Article XI of this Convention shall be applicable

(5) Royalty shall be deemed to arise in a Contracting State when the payer is that State itself, a political sub-division, a local authority or a resident of that State.

Article XIV Capital gains—(1) Subject to the provisions of paragraph (3), gains from the sale, exchange or transfer of a capital asset being immovable property, as defined in paragraph (2) of Article VI, or movable property shall be taxable only in the Contracting State in which such property is situated

(2) For the purpose of this Article the situs of the shares of a company shall be deemed to be in the Contracting State where the company is incorporated

(3) Capital gains derived from the sale, exchange or transfer of a capital asset being a ship or aircraft shall be taxable only in the Contracting State in which such ship or aircraft is registered

Article XV Independent personal services—(1) Income derived by a resident of the United Arab Republic in respect of professional services rendered or other independent activities of a similar character performed in India may be taxed in India only if he is present in India for a period or periods exceeding in the aggregate 183 days during the relevant "previous year", and only to the extent the income is attributable to such services or activities in India

(2) Income derived by a resident of India in respect of professional services rendered or other independent activities of a similar character performed in the United Arab Republic may be taxed in the United Arab Republic only if he is present in the United Arab Republic for a period or periods exceeding in the aggregate 183 days during the relevant "fiscal year", and only to the extent the income is attributable to such services or activities in the United Arab Republic

(3) The term "professional services" includes independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants

Article XVI Dependent personal services—(1) Subject to the provisions of Articles XVII, XIX and XX, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State

(2) Notwithstanding the provisions of paragraph (1), remuneration derived by a resident of the United Arab Republic in respect of an employment exercised in India shall not be taxed in India if

(*a*) he is present in India for a period or periods not exceeding in the aggregate 183 days during the relevant "previous year", and

(*b*) the remuneration is paid by, or on behalf of, an employer who is not a resident of India, and

(*c*) the remuneration is subject to United Arab Republic tax, and

(*d*) the remuneration is not deducted in computing profits of an enterprise chargeable to Indian tax.

(3) Notwithstanding the provisions of paragraph (1), remuneration derived by a resident of India in respect of an employment exercised in the United Arab Republic shall not be taxed in the United Arab Republic if

(*a*) he is present in the United Arab Republic for a period or periods not exceeding in the aggregate 183 days during the relevant "fiscal year", and

(*b*) the remuneration is paid by or on behalf of an employer who is not a resident of the United Arab Republic, and

(*c*) the remuneration is subject to Indian tax, and

(*d*) the remuneration is not deducted in computing profits of an enterprise chargeable to United Arab Republic tax

(4) Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated

Article XVII Directors' fees—Directors' fees and similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State

Article XVIII Artistes and athletes—(1) Notwithstanding anything contained in Articles XV and XVI, income derived by public entertainers, such as theatre, motion picture, radio or television artistes and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised

(2) The provisions of paragraph (1) shall apply only if the personal activities are exercised in the Contracting State for a period or periods in the aggregate exceeding 15 days during the relevant "previous year" or, as the case may be, "fiscal year", and only in respect of the income attributable to the personal activities exercised in that State

Article XIX Pensions—Subject to the provisions of paragraph (1) of Article XX, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State

Article XX Governmental functions—(1) Remuneration, including pensions, paid by, or out of funds created by, a Contracting State or a political sub-division or a local authority thereof, to any individual in respect of services rendered to that State or sub-division or local authority thereof in the discharge of functions of a governmental nature may be taxed in that State

(2) The provisions of paragraph (1) of this Article shall also apply to remuneration including pensions, paid by the Central Bank, the Post, Railways, Telephone and Telegraph, Radio and Television Organisations of the United Arab Republic and by the Reserve Bank of India, Postal Administration, the Public Railway Authorities and the All India Radio Organisation of India.

(3) The provisions of Articles XVI, XVII and XIX shall apply to remuneration or pensions in respect of services rendered in connection with any trade or business other than those mentioned in paragraph (2) carried on by any of the legal entities mentioned in this Article

Article XXI Students—An individual of one of the Contracting States, who is temporarily present in the other Contracting State solely.

(*a*) as a student at a university, college or school in the other Contracting State,

(*b*) as a business or technical apprentice, or

(*c*) as the recipient of a grant, allowance or award for the primary purpose of study or research from a religious, charitable, scientific or educational organisation,

shall not be taxed in the other Contracting State in respect of remittances from abroad for the purposes of his maintenance, education or training or in respect of a scholarship grant The same shall apply to any amount representing remuneration for services rendered in that other State, provided that such services are in connection

with his studies or practical training or are necessary for the purpose of his maintenance

Article XXII Professors, teachers and researchers.—A professor or a teacher from one of the Contracting States who receives remuneration for teaching or scientific research, during a period of temporary residence not exceeding two years, at a university, college, technical school or other institution for higher education in the other Contracting State, shall not be taxed in that other Contracting State in respect of that remuneration.

Article XXIII Income not expressly mentioned—The laws in force in either of the Contracting States will continue to govern assessment and taxation of income in the respective Contracting States except where express provision to the contrary is made in this Convention

CHAPTER IV—METHOD FOR ELIMINATION OF DOUBLE TAXATION

Article XXIV Exemption and credit methods—(1) Where a person being a resident of a Contracting State derives income from the other Contracting State and that income, in accordance with the provisions of this Convention, shall be taxable only in that other Contracting State, or may be taxed in that other Contracting State, the first-mentioned State shall, subject to the provisions of paragraph (2), exempt such income from tax but may, in calculating tax on the remaining income of that person, apply the rate of tax which would have been applicable if the exempted income had not been so exempted

(2) Where a person being a resident of a Contracting State derives income from the other Contracting State and that income, in accordance with the provisions of Articles XI and XII may be taxed in that other Contracting State, the first-mentioned State shall allow as a deduction from the tax on the income of that person an amount equal to the tax paid in that other Contracting State Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is appropriate to the income derived from that other Contracting State

CHAPTER V—SPECIAL PROVISIONS

Article XXV Non-discrimination—(1) The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances and under the same conditions are or may be subjected.

(2) The term "nationals" means.

(*a*) all individuals possessing the nationality of a Contracting State;

(*b*) all legal persons, partnerships and associations deriving their status as such from the law in force in a Contracting State.

(3) The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents

(4) Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected in the same circumstances and under the same conditions

(5) The provisions of this Article shall not be construed as affecting the application in the United Arab Republic of the exemptions conferred in the United Arab Republic by Articles 5 and 6 of Law 14 of 1939

(6) In this Article the term "taxation" means taxes of every kind as specified in this Convention

Article XXVI Mutual agreement procedure—(1) Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident

(2) The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Convention.

(3) The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention They may also consult together for the elimination of double taxation in cases not provided for in the Convention

(4) The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through representatives of the competent authorities of the Contracting States

Article XXVII Exchange of information—(1) The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Convention and of the domestic laws of the Contracting States concerning taxes covered by this Convention in so far as the taxation thereunder is in accordance with this Convention Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those concerned with the assessment, including judicial determination, or collection of the taxes which are the subject of this Convention

(2) In no case shall the provisions of paragraph (1) be construed so as to impose on one of the Contracting States the obligation

(*a*) to carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State,

(*b*) to supply particulars which are not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State,

(*c*) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public)

Article XXVIII Diplomatic and consular privileges—Nothing in this Convention shall affect the fiscal privileges of diplomatic or consular officials under the general rules of international law or under the provisions of special agreements

CHAPTER VI—FINAL PROVISIONS

Article XXIX Entry into force—(1) This Convention shall be ratified and the instruments of ratification shall be exchanged at New Delhi as soon as possible

(2) This Convention shall enter into force on the date of the exchange of the instruments of ratification and its provisions shall have effect

(*a*) in India

(*i*) in the case of income derived from operation of aircraft (referred to in Article VIII), as respects such income derived during any "previous year" beginning on or after the first day of January, 1961,

(*ii*) in the case of any other income, as respects income derived during any "previous year" beginning on or after the first day of January of the calendar year in which the exchange of the instruments of ratification takes place,

(*b*) in the United Arab Republic

(*i*) in the case of income from operation of aircraft (referred to in Article VIII), as respects such income derived during any accounting period ending on or after the first day of January, 1961,

(*ii*) in the case of any other income,—

(*1*) as respects tax on income from movable capital and tax on wages, salaries, indemnities and pensions, which taxes are due on or after the date on which the exchange of the instruments of ratification takes place,

(*2*) as respects tax on commercial and industrial profits for any accounting period ending on or after the date on which the exchange of the instruments of ratification takes place,

(*3*) as respects tax on income derived from immovable property (including the land tax, the building tax and the ghaffir tax), tax on profits from liberal professions and all other non-commercial professions and the general income-tax for the calendar year in which the exchange of the instruments of ratification takes place

The rules in sub-paragraph (*b*) of this paragraph shall be correspondingly applicable respectively to the defence tax, national security tax and to the supplementary taxes

Article XXX Termination—Either of the Contracting States may terminate this Convention after a period of five years from the date on which this Convention enters into force, by giving to the other Contracting State, through the diplomatic channels, written notice of termination, provided that such notice shall be given only on or before the thirtieth day of June in any calendar year, and in such event, this Convention shall cease to be effective

(*a*) in India

as respects income derived during any "previous year" beginning on or after the first day of January of the calendar year next following that in which the notice is given,

(*b*) in the United Arab Republic

(*1*) as respects tax on income from movable capital and tax on wages, salaries, indemnities and pensions, which taxes are due on or after the first day of July in the calendar year next following that in which the notice is given,

(*2*) as respects tax on commercial and industrial profits for any accounting period ending on or after the first day of July in the calendar year next following that in which the notice is given,

(*3*) as respects tax on income derived from immovable property (including the land tax, the buildings tax and the ghaffir tax), tax on profits from liberal professions and all other non-commercial professions and the general income-tax for the calendar year next following that in which the notice is given.

The rules in sub-paragraph (*b*) of this paragraph shall be correspondingly applicable respectively to the defence tax, national security tax and to the supplementary taxes

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention

Done in duplicate at Cairo this 20th day of February, 1969, in the English language

Apa B Pant	Ahmed El Sayed Shaban
For the Government of India	For the Government of the United Arab Republic

Cairo,
20th February, 1969

Dear Sir,

The Convention between the Government of India and the Government of the United Arab Republic for the avoidance of double taxation with respect to taxes on income being signed today, I have the honour, on behalf of the Government of India, to inform you that the two Contracting States have agreed as follows.

The provisions of Article VIII (Air transport) of the said Convention being operative under the terms of Article XXIX (Entry into force) of the Convention, in the case of India, as respects income derived from operation of aircraft during any "previous year" beginning on or after the first day of January, 1961, and in the case of the United Arab Republic, as respects such income derived during any accounting period ending on or after the first day of January, 1961,

Where any taxes covered by this Convention have been paid or are payable in one of the Contracting States by a designated airline of the other Contracting State as respects such income derived by it during any "previous year" or accounting period aforesaid, the first-mentioned Contracting State shall refund such taxes to or, as the case may be, refrain from charging such taxes from the designated airline

The designated airline aforesaid shall, in the case of India, be the Air India, and in the case of the United Arab Republic, be the United Arab Airlines

2 I should be grateful if you confirm your agreement to the above understanding of the provisions of Article VIII read with Article XXIX of the said Convention,

and that in such case, this note and your reply thereto shall be deemed to be part of the Convention

3 Please accept, Your Excellency, the assurances of my highest consideration.

Apa B Pant

His Excellency Mr Ahmed El Sayed Shaban,
Under Secretary for the Taxation Department,
Ministry of Treasury,
Government of the United Arab Republic,
Cairo

Cairo,
20th February, 1969

Dear Sir,

With reference to the Convention signed today between the Government of the United Arab Republic and the Government of India for the avoidance of double taxation with respect to taxes on income, you, on behalf of the Government of India, informed me of the following

"The Convention between the Government of India and the Government of the United Arab Republic for the avoidance of double taxation with respect to taxes on income being signed today, I have the honour, on behalf of the Government of India, to inform you that the two Contracting States have agreed as follows

The provisions of Article VIII (Air transport) of the said Convention being operative under the terms of Article XXIX (Entry into force) of the Convention, in the case of India, as respects income derived from operation of aircraft during any "previous year" beginning on or after the first day of January, 1961, and in the case of the United Arab Republic, as respects such income derived during any accounting period ending on or after the first day of January, 1961,

Where any taxes covered by this Convention have been paid or are payable in one of the Contracting States by a designated airline of the other Contracting State as respects such income derived by it during any "previous year" or accounting period aforesaid, the first-mentioned Contracting State shall refund such taxes to or, as the case may be, refrain from charging such taxes from the designated airline

The designated airline aforesaid shall, in the case of India, be the Air India, and in the case of the United Arab Republic, be the United Arab Airlines

2 I should be grateful if you confirm your agreement to the above understanding of the provisions of Article VIII read with Article XXIX of the said Convention, and that in such case, this note and your reply thereto shall be deemed to be part of the Convention"

2 I have the honour to confirm that the above-mentioned proposal meets with the approval of the Government of the United Arab Republic

Your note of today's date and my reply thereto shall, therefore, be part of the Convention.

3 Please accept, Your Excellency, the assurances of my highest consideration

Ahmed El Sayed Shaban

His Excellency Mr. Apa B Pant,
Ambassador of India,
Cairo

AGREEMENT FOR AVOIDANCE OF DOUBLE TAXATION BETWEEN INDIA AND FRANCE

(Notification No G S R 260, dated 18th February 1970)

Whereas the annexed Agreement between the Government of India and the Government of the French Republic for the avoidance of double taxation in respect of taxes on income has been approved in accordance with the laws in force in each of the two Contracting States and the diplomatic notes to this effect have been exchanged today, as required by paragraph (1) of Article XXV of the said Agreement,

Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (XLIII of 1961), and section 24A of the Companies (Profits) Surtax Act, 1964 (VII of 1964), the Central Government hereby directs that all the provisions of the said Agreement shall be given effect to in the Union of India thirty days after this date

ANNEXURE

Agreement between the Government of India and the Government of the French Republic for the avoidance of double taxation in respect of taxes on income

The Government of India and the Government of the French Republic,

Desiring to conclude an agreement for the avoidance of double taxation in respect of taxes on income,

Have agreed as follows

Article I—(1) The taxes which are the subject of the present Agreement are.

(*a*) in India

the income-tax and any surcharge on income-tax levied under the Income-tax Act, 1961 (XLIII of 1961), and

the surtax levied under the Companies (Profits) Surtax Act, 1964 (VII of 1964),

(hereinafter referred to as "Indian tax"),

(*b*) in France

the income-tax on individuals (impot sur le revenu des personnes physiques),

the complementary tax (taxe complementaire),

the tax on the profits of companies and other legal entities (impot sur les benefices des societes et autres personnes morales),

(hereinafter referred to as "French tax").

(2) The present Agreement shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of the existing taxes At the beginning of each year, the competent authorities of India and France shall notify to each other any changes which have been made in their respective taxation laws in the preceding year

Article II—(1) In the present Agreement

(*a*) the term "India", when used in a geographical sense, means all the territory in which the laws relating to Indian tax are in force,

(*b*) the term "France", when used in a geographical sense, means the European departments and the overseas departments (Guadeloupe, Guiana, Martinique and Reunion),

(*c*) the terms "one of the Contracting States" and "the other Contracting State" mean India or France, as the context requires,

(*d*) the term "person" includes natural persons, companies and all other entities which are treated as taxable units under the tax laws in force in the respective Contracting States,

(*e*) the term "company" means any body corporate and includes any entity which is treated as a body corporate or a company for tax purposes under the laws of the respective Contracting States,

(*f*) the term "tax" means Indian tax or French tax as the context requires,

(*g*) the terms "resident of India" and "resident of France" mean respectively any person who is resident in India for the purposes of Indian tax and not resident in France for the purposes of French tax, and any person who is resident in France for the purposes of French tax and not resident in India for the purposes of Indian tax A company shall be regarded as resident in India if it is incorporated in India or its business is wholly managed and controlled in India A company shall be regarded as resident in France if it is incorporated in France or its business is wholly managed and controlled in France,

(*h*) the terms "Indian enterprise" and "French enterprise" mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of India and an industrial or commercial enterprise or undertaking carried on by a resident of France, and the terms "enterprise of one of the Contracting States" and "enterprise of the other Contracting State" mean an Indian enterprise or a French enterprise as the context requires,

(*i*) the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on

(*aa*) the term "fixed place of business" shall include a place of management, a branch, an office, a factory, a workshop, a warehouse, a mine, a quarry or other place of extraction of natural resources,

(*bb*) an enterprise of one of the Contracting States shall be deemed to have a fixed place of business in the other Contracting State if it carries on in that other Contracting State a construction, installation or assembly project or the like,

(*cc*) the use of mere storage facilities or the maintenance of a place of business exclusively for the purchase of goods or merchandise and not for any processing of such goods or merchandise in the country of purchase, shall not constitute a permanent establishment,

(*dd*) a person acting in one of the Contracting States for or on behalf of an enterprise of the other Contracting State shall be deemed to be a permanent establishment of that enterprise in the first-mentioned Contracting State, if

1 he has and habitually exercises in the first-mentioned Contracting State, a general authority to negotiate and enter into contracts for or on behalf of the enterprise, unless the activities of the person are limited exclusively to the purchase of goods or merchandise for or on behalf of the enterprise, or

2 he habitually maintains in the first-mentioned Contracting State a stock of goods or merchandise belonging to the enterprise from which the person regularly fulfils orders for or on behalf of the enterprise, or